

contribute towards the asphaltting of footpaths along property from which the municipality of Boulder received no rates. Again the municipality of Coolgardie received no rates from the property in the neighbourhood of Burbanks Road. With regard to the Kalgoorlie-Boulder Road, a small sum of £750 was voted for the portion of the road within the municipality. The rest of the road was in the roads board district. It was all very well to say that the greatest amount of expenditure on the goldfields was in the Coolgardie, Kalgoorlie, Hannans and Boulder districts, but these were the most important places.

MR. MORAN: Were these ante-election promises?

THE MINISTER: They had no connection with these at all. The principle of giving no special grants to municipalities had as far as possible been adhered to.

Item—Agricultural Areas, roads in, £2,000:

MR. MORAN: Were these to be new roads?

THE MINISTER FOR LANDS: This was for clearing by-ways through various agricultural areas, and was not for making roads. Some culverts or crossings might have to be made.

Item—Albany, Road through reserve to deepwater jetty, £550:

MR. MORAN: The Treasurer pointed out that the money had already been paid, so that it was no use arguing on this item.

THE TREASURER: The municipality of Albany said the work had to be done, and that they would provide the funds if we would put the item on the Estimates. If the item were struck out the municipality knew what might happen.

MR. TAYLOR had no desire to strike out the item, but it was not fair to have items anticipated. The municipality should not provide the money knowing that when the item came forward on the Estimates here members would be aware that the municipality had provided the funds and would not strike out the item. He hoped it would not be a principle to be followed in future.

MR. CONNOR: There was no municipality at Wyndham; but supposing

the people there wanted a certain work carried out, and he told them to spend their money and he would try to get the amount put on the Estimates, what would happen if he could not?

MR. MORAN: The hon. member would need to be in the Government to do that.

MR. CONNOR: It seemed peculiar that such a course should be taken. If this had been done two or three years ago when the present Treasurer was sitting in Opposition, there would have been a terrible row, a great talk of corruption and bribery. Although the item should not be struck out, the course adopted should be made known. Members who tried to put a brake on the Government were told that they were obstructing; but it was as well before we passed these items to have some explanation. It was a dangerous precedent to spend the money first and then ask the Committee to pass it.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 11:20 o'clock, until the next day.

Legislative Council,

Wednesday, 16th December, 1903.

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THE PRESIDENT took the Chair at 4:30 o'clock, p.m.

PRAYERS.

FREMANTLE TRAMWAYS BILL.

Read a third time, on the motion of
HON. R. LAURIE, and returned to the
Assembly with amendments.

JANDAKOT RAILWAY BILL.

SECOND READING.

HON. M. L. MOSS (Minister): I desire to express my personal pleasure at having the opportunity of moving in this House the second reading of the Bill; because I certainly think that the Government, in agreeing to construct the first section of this railway, are simply doing an act of justice to settlers in the Jandakot area. The agitation for a railway through this locality is not new, but has for many years engaged public attention in the district; and the line has been promised not only by the present but by two preceding Governments. The railway when completed will ultimately connect Fremantle by a new route with the South-Western railway, and more directly than it is now connected by the circuitous route over which passengers and goods are at present conveyed. The line referred to in the schedule will be six miles long, will start at the terminus of the present Woodman's Point railway, and will follow the route laid down in the schedule as far as the agricultural hall at Jandakot. The Jandakot area contains about 35,000 acres of land; it is a very fertile tract of country, producing large quantities of fruit, vegetables and other crops; and the difficulties which settlers have had to contend with in the past are known to those only who have frequently visited the district. From an agricultural point of view the Jandakot area is somewhat peculiar, because it lends itself to closer settlement more readily than many other of our agricultural districts; and although in Clause 4 power is given to the Governor to purchase compulsorily for closer agricultural settlement land within eight miles of either side of the railway, I think that power will seldom be resorted to, because in the Jandakot area settlement is already very close, and the land is being utilised to the utmost. In passing his Bill we should not lose sight of the fact that the country is heavily timbered, and that the line will provide a cheap and easy means of bringing fuel to

Fremantle and district. But the Bill has another and a more important feature. If the line is ultimately extended to the South-Western railway, a great saving of mileage will be effected between Fremantle and the point of junction, and the existing congestion of goods traffic will be at once relieved. I am informed by the Minister for Railways that the cost of the six miles of line now proposed to be constructed will be £15,000. It is intended to spend next year £10,000, which sum will be provided, not out of loan, but out of surplus revenue. I do not think there is any part of the State where road making has been so expensive as in this area. No suitable material is procurable nearer than Fremantle, and as soon as the line is constructed, roads for the opening up of the district can be made for nearly one quarter of the price now ruling. I am informed that as much as £3,000 per mile has been paid for road making in that locality. I do not anticipate any objection to the measure. As I have said, the people of the district have been patient and long suffering; the line, even if taken only to the agricultural hall, will prove fairly payable; and I have no doubt that when ultimately extended to the South-Western railway it will be among the best paying lines in the State. Settlers in the Jandakot area have been induced to take up land by the statement that roads would be made to enable them to reach their homes; and many of them, since previous Governments promised to construct the railway, have looked for its construction as a matter of right. I am pleased that the Government have seen fit to make a commencement with so necessary a work; and if we agree to expend £15,000 on six miles of line, we are merely doing what is right to the settlers in the locality.

HON. G. RANDELL (Metropolitan): I am pleased to be able to support this work. If these people have not been long suffering, they have been subject to great disabilities. No doubt the Jandakot area is a fair agricultural district, and as settlement has been induced in it by promises of transport accommodation, I think the Government are bound to give settlers all possible facilities. The Bill is brought down none too early; but I for one regret that the whole line to connect with the South-Western railway

is not authorised. I do not know what reasons have influenced the Government—whether they are afraid of some vested interest, or whether their reluctance is due to weakness; but I have held for a long time that the timber, the produce, and the trade generally between Fremantle and the South-Western railway should not be carried *via* Perth. We have plenty of traffic on the existing line, and I believe the new line will considerably relieve the occasional congestion. I think this line should at once be joined to the South-Western; and it would be wise to immediately settle the dispute as to the point of junction. Some very earnest efforts have been made to take it in one direction, and I believe the general body of people are in favour of its going to Armadale. Without leading members to think that I have a great knowledge of the district—which I have not—my own opinion, from studying the map and knowing some parts of the country and the interests to be served, is that somewhere in the neighbourhood of Armadale is the proper place. To carry the timber a few miles when it is on the railway trucks is very immaterial. I have no reason to think the railway will be taken straight to Mundijong. The line would go through far better country between Armadale and Jandakot. It would have been a shame to have deprived Jandakot of this line although I believe efforts were made to do that. Seeing this is an instalment of justice to the district and to Fremantle itself I am glad to support this line. I have only one regret in connection with the railway, that the difficulty was not faced at once and the point of junctioning with the South-Western line determined upon. I would like that determined on in accordance with my own view. I know Armadale and the district around it and I know the line will serve a considerable population there. There will be a large production of fruit at Armadale in the near future. I have much pleasure in supporting the Bill.

HON. C. A. PIESSE (South-East): I wish to express my pleasure at seeing this Bill before the House, and trust it will pass. I desire to draw attention to two or three clauses in the measure which introduce a dangerous principle. I refer

to the compulsory purchase of land. I think the principle a very bad and dangerous one to introduce. If such a principle can be applied to this line then it should be made to apply to the lands along the Great Southern line or any other line in the State. I cannot see how the Government can justify the position they have taken up unless they bring in a law to make the principle apply to the land along the existing railways. I simply draw attention to this matter because in Committee, if no other member moves it, I shall move to strike out Clause 4 with a view of testing the feelings of members as to this innovation. I congratulate the Jandakot settlers on this railway having reached a stage when we may say it is practically built.

HON. R. LAURIE (West): In supporting the second reading it gives me pleasure to congratulate the Government on carrying out a promise which has been made repeatedly by preceding Governments. Promises have been made from time to time to the people of Jandakot that they should have a railway to serve their wants. I feel extremely sorry the railway is not to be taken to the South-Western line. As to the point at which connection with the South-Western line should be made, that is a matter to be decided by the Government. The connection with the South-Western railway would render the carriage of goods, whether timber or anything else, and what I hope to see before long, fruit, from the South-Western districts to the steamers at Fremantle much easier. In a few years an opportunity will be given to the people in the South-Western district to grow sufficient fruit, such as apples, pears, and grapes, for the requirements of the people in this district and for the supply of the shipping. I am sure when the time comes they will be able to do that. While I do not wish to see the port of Bunbury passed over, it must be agreed that the mail steamers cannot call there for fruit, and if this railway is carried to the South-Western line at such a point to enable fruit and other products to come to Fremantle as cheap as possible that will be an advantage to the shipping. The line should be built to the nearest place, so that there will not be an additional railage of 10 or 11 miles which will increase the cost of

bringing the produce to Fremantle. The Government are doing an act of justice to the settlers at Jandakot. They are doing what is right in beginning a railway which will ultimately mean junctioning with the South-Western line and thus connecting Fremantle with the South-Western districts. There are numbers of ships waiting at Bunbury to be loaded, and if this line were built these ships could be loaded at Fremantle with advantage to themselves and to the port of Bunbury. When I say of advantage to Bunbury, I mean that a port gets a bad name when vessels are kept waiting there for a long time, and it is better that the vessels should be loaded at other ports. Of course Bunbury always will be the port for shipping timber, and if the railway had been built and communication established with the South-Western line for the last three years, instead of ships having to wait at Bunbury they would have been able to load at Fremantle. Bunbury would have been in a much better position, the people of Jandakot would have benefited, the timber trade would be in a better position, and Fremantle would have benefited also. I trust it will only be a short time before the Government will see fit to carry the line to the South-Western railway. I support the second reading.

HON. E. M. CLARKE (South-West): I am glad the Government have introduced this Bill, and I recognise the line will be a great saving to a number of people and of advantage to others. I acknowledge straight away that Fremantle is the port of the State, and to Bunbury it must be a decided advantage to be placed as near that port as possible. To put it in other words, produce may have to be sent from the South-West line, and it should not be sent right round by way of Perth. I regret that the line did not go straight through to somewhere, so that there would have been direct communication with Fremantle without going round by Perth. Captain Laurie struck the right nail on the head in regard to the carriage of fruit and other produce. I hail with delight the time when the people along the South-Western line will be placed in direct communication with Fremantle. This line will not only be of advantage to Jandakot, but to the people of Fremantle. It will not be a disad-

vantage to Perth, and it will be a convenience to all the people on the South-Western line. I support the motion.

HON. W. T. LOTON (East): Like other members I support the second reading of the Bill, and I concur entirely with the remarks which have fallen from Mr. Randell in regretting that this line does not junction straight away with the South-Western Railway. It must be well known that to construct short spur lines and work them is a considerable disadvantage, and means extra cost. If the line were carried on to the South-Western railway at the present time it would relieve very considerably the traffic that has to come round by Perth at present. As to the route to be taken from Jandakot I have nothing to say now, but if the line is to be taken straight to the Agricultural Hall at Jandakot the line will not strike direct south from that to tap the South-Western line. It will go to the South-Western line in the nearest direction at Armadale, which seems to be the proper route. By going to Mundijong, anyone who knows that route is aware that the country is not so good; not such a large area of land has been opened up. There is one other matter that has been referred to, that the funds for the construction of the line are to come from the surplus general revenue. This is one of the greatest mistakes that the Government can make—constructing lines of railway from revenue when they have not the money to spare. We have not the Loan Bill before us, but I saw an extract from the Loan Bill, and it contains a list as long as one's arm of the various amounts required to complete works. If the Government have this surplus revenue would it not be better to construct these bits of jetties and wharves and works of that kind out of this surplus revenue than to construct a line of this nature? The Government made a mistake in commencing the construction of the Laverton railway out of revenue, and unless the Government see their way to carry a line through it would be better to borrow the money for the work and keep the money they have for other purposes. Then we should not have a list as long as one's arm of petty works which are to be paid for from loan money. Let us construct a big work out of loan money rather than from

revenue. I have nothing more to say. I support the Bill, but I regret it is not to be carried through to the South-Western railway at the present time. I regret this line is not to be built out of loan moneys. We should not construct permanent works out of ordinary revenue. It is not right to partly construct works out of revenue and then have to go to the loan market for money to complete them. The Loan Bill contains items of £4,000 and £5,000 or £2,000 and £3,000 to complete works which have been commenced. To my mind it is somewhat trivial to commence works out of revenue and then have to finish them by borrowing the money. It seems that the Government have not the confidence to go in for the whole railway at once. If the railway is to cost £15,000 another £10,000 would complete it, and is the Government to be stuck for £10,000 by the expenditure of which greater facilities would be rendered straight away?

HON. W. MALEY (South-East): I do not think this railway is one to go into raptures over, although I am satisfied that the Jandakot people have earned consideration. The cost of the construction of roads throughout the district has been very considerable. It will be a matter of economy if a railway is constructed in that direction, and it will be of some service to the State. The railway will serve an agricultural centre or district which has been proved for some considerable time; certain parts of it are very prolific in the growth of vegetable and root crops, and it is a pity that the railway is not to be carried on to the South-Western line, which would make it of additional service to the State. Those who have had an opportunity of visiting the shows at Jandakot must be alive to what is going on through the energy and capacity of the settlers there. The engineering difficulties, I presume, are not very great; but I hope the six miles it is proposed to construct will be sufficiently ballasted, and that the cost of construction will not be great in comparison with the cost of the remaining portion to join with the South-Western railway. In constructing such small sections the expense of commencing work is very considerable; and when contracts are let for different sections the expenditure is increased every time. Although

we are paying for this line out of revenue, full consideration should be given to its ultimate destination; and when the distance is less than 50 miles no attempt at actual construction of such lines should be made until the Government are prepared to carry them to their ultimate destination. I am satisfied that the Bill will be generously dealt with in Committee, and that with the exception of the clause relating to the compulsory purchase of private lands it will be passed. I sincerely hope that members will not let themselves become parties to confiscating in any way the rights of the people. We can debate that question in Committee, when I think members will decide that the proposal in Clause 4 amounts to confiscation, and that we should wipe our hands of it, and so earn the gratitude of the thinking portion of the community.

HON. A. DEMPSTER (East): I am pleased to support a Bill to authorise the Jandakot railway; but to pass Clause 4 would be to give the railway with one hand and take it with the other. What is the use of a railway if the land adjoining it is taken from the people?

SIR E. H. WITTENOOM (North): I regret that I was not here to listen to the speech of the Minister introducing the Bill, and to learn reasons why the line should not be carried more than six miles from its starting point. No doubt the reasons are good, but I do not know what they are; and I think it would be better in the interests of the State were we to take the line to Mundijong or to some other terminus. There has long been a difference of opinion as to the wisdom of taking it even to Jandakot; but I must again repose my confidence in the Government, who, I hope, have assured themselves that they are acting rightly. What I chiefly rose to say was, that I entirely agree with the remarks of Mr. Loton—that such railways should not be constructed out of revenue. Borrowed money is supposed to be spent—and according to the schedules of Loan Bills it ought to be spent—on reproductive public works; and a railway is one of the most legitimate works for which money can be used. I cordially appreciate Mr. Loton's reference to a list of works constructed out of loan; and I think all railways should be built with borrowed money, while the hundred-and-one small works

we saw enumerated this morning should be paid for out of the revenue it is intended to devote to this railway. I shall offer no opposition to the second reading.

HON. M. L. MOSS (in reply): I desire firstly to thank members for the reception the Bill has met with; and as to the remarks of Sir Edward Wittenoom and Mr. Loton, I would say that the reason for not taking this line at once to the South-Western Railway is that it must be constructed out of surplus revenue; and the Government wish to be perfectly certain, before letting contracts for the construction of the entire line, that there is sufficient surplus revenue to be allocated to that purpose. Some members say that it is not expedient to construct such railways out of surplus revenue; but the proposal to do so is not new. We know that the Greenhills railway, a considerable portion of the Bunbury Harbour Works, and the major portion of our public buildings, were constructed out of revenue. If I may be allowed to express my private opinion, I say at once that the effect on the London money market of constructing out of revenue works which will be reproductive almost from their completion must be very good. We can show in this State a very clean record in respect of expenditure on public buildings; for notwithstanding the many fine edifices we have erected, less than £100,000 of that expenditure has come out of loan; and I think that when our record is inquired into by investors at home, they will acknowledge that when surplus revenue has been the order of the day in this State, instead of its being squandered on fancy works, it has been expended on works which in other States have invariably been constructed with borrowed money. As Mr. Piesse interjects, that is a compliment to the old Forrest Government; and it is a credit to the present Government that in so important a matter they are following in the footsteps of their predecessors. My own opinion as to the route, already expressed in the House and frequently in the district where I reside, is that the line should go to Armadale; and I say unhesitatingly that there is a strong opinion among the majority of the people interested—those in the Jandakot area—that Armadale is

the point at which the South-Western railway should be tapped. Whether the line will ultimately be taken to Armadale I cannot say; because that depends on what the majority of the Cabinet think, and what the Cabinet think has afterwards to be confirmed by Parliament. But I am strongly of opinion that the line should ultimately join the South-Western railway at Armadale. The only other point to which I need refer is the provision for the compulsory purchase of private lands, which will be referred to in Committee when Mr. Piesse moves the excision of Clause 4. The hon. member told us that if this principle is to be affirmed in the Bill it should be applied to lands on the Great Southern and other railways in the State. I hardly think that if he considers the matter he will put lines already constructed on the same footing as lines about to be constructed. The principle embodied in Clause 4 I term a modified betterment principle. Here, instead of taxing the land benefited by the construction of this work, the Government, before the work is actually undertaken, and before any enhanced value is created by the construction of the work, can, if they think fit, and only for the purpose of closer settlement, resume that land at its full value, irrespective of any fancy value arising from the construction of the railway. I believe it will never be necessary to take an acre of land in the Jandakot area; because that area is already closely settled. It is held in small lots, and is being subjected to intense culture. But in some districts of the State through which it may be proposed to construct a railway at considerable cost, it is not fair that the general taxpayer should not get some of the benefit derived from the enhanced value. However, when in Committee I am prepared to listen to Mr. Piesse, and to give the best consideration I can to his views.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2, 3—agreed to.

Clause 4—Power of Governor to compulsorily purchase land within eight miles of railway:

HON. C. A. PIESSE moved, as an amendment:—

That the clause be struck out.

The New Zealand Act provided for compulsory purchase, but only in New Zealand was such legislation in force; and that Act was surrounded by so many safeguards as not to be a source of great danger. Here, however, the Government asked for a free hand to purchase estates compulsorily. This was altogether wrong; and the proposal, even if favoured, needed much more consideration than could now be given it. If it could justifiably be applied to new railways it should apply to existing railways. Why should not 1,000 acres of land locked up on the Eastern railway be subject to compulsory resumption when a similar area at Jandakot or on the Collie-Narrogin line could be thus resumed? There was no indication that the Government would pay a fair price for the land.

HON. M. L. MOSS: By Clause 5 it must be taken under the Public Works Act.

HON. C. A. PIESSE: But values were only matter of opinion. There was much truth in statements made in another place. Although the principle might eventually be carried out, it was not the desire of the people that it should come into existence at present. It was the thin end of the wedge. It was a principle which deserved consideration, and the country should be asked to express an opinion upon it. Before New Zealand went into this principle, thorough consideration was given to the matter and compulsory purchase was protected in a proper way so that people knew what they were doing. Here the principle was to be protected by the Public Works Act which did not give a man a chance of getting fair value for his land.

HON. M. L. MOSS: According to the Public Works Act,

In determining the amount of compensation to be awarded for land taken regard shall be had to the probable and reasonable price at which such land, with any improvements thereon, or the estate or interest of the claimant therein, might have been expected to sell at the date the land was taken, without regard to any increased value occasioned by the proposed public work.

So the court would give a reasonable price for the land. The hon. member was not fair in saying that the Govern-

ment would not give a fair price. If the amount was over £100, a judge of the Supreme Court with two assessors made the award; and if the amount were under £100 then a magistrate and two assessors made the award.

HON. A. DEMPSTER supported the amendment.

HON. W. MALEY: The method by which it was proposed to deal with the compulsory purchase of land would be a warning to people going out and settling in the wilds of Western Australia. It was a cruel thing to the men who had gone to Jandakot some years ago to say, "Stand and deliver your property at a price which it would have brought at auction yesterday." If the Government were to be allowed to take the land at the point of the bayonet, as it were, it was a warning to intending settlers to take up land nowhere except close to a railway line. People would not go into the interior and battle as the pioneers had done in the past, for there would be no inducement for the pioneer now. Hitherto as far as Australia was concerned the men who went out into the back blocks had been encouraged and no difficulties impeded them. If we were to move in a new direction let us move slowly. This principle should be fought out at the general election, and those who were responsible for it being brought forward should make it a plank in their platform. The public should be thoroughly educated and seized of the importance and the bearing of the question on land settlement. He was not one of those who believed it was a sin to hold more than 1,000 acres of land. The men who had done most for Australia were those who held large areas, who had improved the breeds of cattle, who had built up the wool industry, who had bred the best cattle and taught the poor men who had a few acres the best class of stock to keep. The proposal was to cut up large estates; but large estates were of great value to this State, and in some instances those holding small areas had not the capital to carry into effect the ideas which they held. It was not always an advantage to take a large block and cut it up into small areas, though at times there might be a demand for small blocks. It was necessary in a State like this that there should be large blocks, because they

had a particular place in the economy of the State, and without them it would be difficult for the country to progress. In South Australia it had been found that the scarcity and high price of mutton was due largely to the drastic legislation brought in to deal with certain large runs which were considered necessary for closer settlement. He (Mr. Maley) would always respect the rights of people, and he respected a man's interest in land as he did a man's interest in a bank. If a man had a few thousand pounds in the bank for which he had no immediate employment, would the Government be doing right to take that money because they could make better use of it by distributing it amongst other people? Was it right that the Government should take that money and give a certain area of land in exchange for that cash? That was the same principle which this clause wished to carry out. The Government wished to give certain cash in exchange for land. It was more difficult to get a suitable investment in land than to get a suitable investment in the shape of a loan. If a man was turned off his estate it would be difficult to find another suitable land investment. Once the thin end of the wedge was allowed to be put in, then we never knew where it would end. There were other moneys which the Government expended on public works which gave an advantage to the value of holdings. The money laid out on the harbour works at Fremantle, and in tramways which might be carried on at any time by the Government. If the Government could demand to take land by compulsory purchase, they were taking away the individual right to a share in the public expenditure and the profit which that expenditure brought to the investment of capital. Members would admit that it would be wrong to go to Fremantle and take some of the areas held and cut them up into smaller areas under the compulsory sale system—to compel the sale to the Government of town and suburban lands, because there were people outside the town living in tents. The clause struck at the root of permanent settlement in the State, and if we allowed the clause to pass it would open the way to a serious state of things in the future. It was not proposed to compulsorily resume any but locked-up land. The

railway was not intended altogether in the interests of the Jandakot settlers, but to enable Perth and Fremantle residents to get cheaper produce. Mr. Piesse said the clause should apply to lands along existing railways; but these would retain their present values, while the lands along the proposed line would have an enhanced value immediately on the construction of the line being agreed to.

HON. C. SOMMERS favoured compulsory purchase along the route, but disagreed with applying this to land eight miles on either side of the line. Land within five miles of any existing line should also be exempted from resumption. He moved as a farther amendment:

That the word "eight," in lines 6 and 8, be struck out and "two" inserted in lieu.

HON. J. M. DREW supported the striking out of the clause. He entirely favoured compulsory purchase for closer settlement, but believed in the New Zealand system, which involved a land tax. Any system adopted should be universal in its application, and not confined to one portion of the State. To deprive Jandakot land-owners of the enhanced values resulting from this railway, while people of other districts derived full benefit from similar railways, would be grossly unfair.

THE COLONIAL SECRETARY: The clause would initiate an attempt to conserve to taxpayers some proportion of the profits resulting from works which taxpayers provided by their own exertions. These profits should not be exclusively absorbed by those lucky enough to have practically undeveloped lands along the routes of proposed lines. Members lost sight of the wording of the clause, which provided that the Governor might, with the object of encouraging the cultivation and settlement of land, compulsorily purchase land certified by the Minister as suitable for closer agricultural settlement. Thus the clause would apply to those lands only which were not being used. He regretted with other members that the betterment principle had not been initiated when our public works commenced; but surely members would not argue that because certain people had got away with profits which ought to have been shared with the

general taxpayer, we should never adopt a more satisfactory principle.

HON. C. A. PIESSE: Mr. Moss's explanation made matters worse; for he said the land would be purchased at its value prior to the proposal for a railway. If the existence of a railway within a reasonable distance were considered in valuing, the clause might be just; but the Public Works Act stated that the presence of a railway should not be considered. Why give the enhanced value to a man who happened to be farther than eight miles from the railway, and deprive the settlers within that distance? The principle should be general in its application.

THE COLONIAL SECRETARY: Would the hon. member support a Bill of general application?

HON. C. A. PIESSE: That was not necessary when so many acres of State land were available; but if the principle was adopted it should be universal. The Collie-Narrogin Railway Bill provided for resuming land for 12 miles on either side of the route. Why the difference? That Bill would enable the Government, where the line joined an existing railway, to resume land within 24 miles of that railway. Why should such areas be subject to purchase while neighbouring lands were exempt?

HON. M. L. MOSS: The remarks of Mr. Piesse, Mr. Maley, and Mr. Drew could not pass without protest. Mr. Drew said the clause proposed to treat unfairly the people of Jandakot. He (Mr. Moss) represented those people, and would be the first to stand up for their rights if these were assailed. If land was not being used for agricultural purposes in the Jandakot Area and people were locking it up for speculative purposes, that would justify the Minister for Lands in saying the land was suitable for closer agricultural settlement. If the land was held in areas that could not be profitably worked, running into thousands of acres, and was being held until the railway was built, was it not of advantage to the country that this land should be purchased compulsorily and half-a-dozen or a dozen families placed on the land? He would be the last to do an injury to the settlers at Jandakot, who had been settled in this part of the

country for years working against great disadvantages. It was not because blunders had been made in the past that we should continue them. Take the Newcastle district: there were miles and miles of country benefited by the construction of a railway, and no benefit resulted to the country. There was no reason to continue these blunders. In regard to Jandakot, he did not think it would be necessary to put in force this provision, but if the principle was to be inserted in the Collie-Narrogin Railway Bill, and in other Bills, then it should be inserted in this measure. Mr. Maley had talked of confiscation; it was not fair to use a word of that kind in connection with Clause 4. The Government, in submitting this provision as part of their policy, did not desire that it should be suggested that the Government were attempting to confiscate property. There was a great deal of land which was held for speculative purposes, and the Government should not be expected to spend thousands of pounds in the construction of a line to enhance the value of that property, and that the person who held it should reap the benefit. The Government gave to themselves the right to compulsorily take the property, and instead of confiscating it they gave to the owner the value of the land and 10 per cent. in addition for the compulsory taking of it. Mr. Piesse apparently thought, with regard to the Collie-Narrogin line, that in taking land near Narrogin the arbitrators would be compelled to fix as the value of that land an additional value which had been given to the property by its presence near the Great Southern Railway. That was not the case. The interests of the public would be particularly safeguarded in regard to this provision. He (Mr. Moss) was a great believer in putting as many people on the land as possible; he did not believe in one person holding a large area of land which would settle half a dozen families; one had only to go through a country like France to see what backbone that country had, which had been brought about by the small areas which were held—10 or 12 acres as a rule. It was unfair in the extreme to stigmatise the policy laid down in the clause as confiscation; it was a policy dictated in the best interests of the

country, and members would be wanting in their duty by opposing the passage of the provision.

HON. W. MALEY: It was not necessary to go to France as an example of what closer settlement had done for a country. One had only to turn to the village settlement in South Australia, where a large area was cut up into small blocks with the intention of settling people on these areas. At the present time, this settlement in South Australia was practically deserted. There was abundant proof in Australia of what happened in regard to these settlements without going to France to point out their success. There was one settlement near Adelaide, the Tyup, which at one time was prosperous, but now there were only eight families settled on that land. That was an example of a prosperous closer settlement scheme.

THE COLONIAL SECRETARY: The clause gave protection to those who owned land, for before land could be taken, it had to be certified by the Minister for Lands as suitable for closer settlement, and no land could be compulsorily purchased until the Land Purchase Board had reported upon it.

HON. C. A. PIESSE: The members of the Government led me to believe that this provision would only apply to large estates, but there was nothing in the clause which said that.

HON. J. D. CONNOLLY: Why would the Government wish to purchase a 100-acre block?

HON. C. A. PIESSE: An area of 100 acres might be required for working men's blocks; men might say we want 10 acres at a certain spot, and the Government might acquire the 100 acres and cut it up into 10 blocks.

HON. J. D. CONNOLLY: If the land would carry 10 families then it ought to be cut up.

HON. C. A. PIESSE: Why should not this principle be applied along the Great Southern line and the South-Western line? The limit of eight miles had been fixed in the Bill because a 12-mile limit would have brought in the properties on the Swan River which were being cut up for sale.

Amendment negatived.

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

Ayes	...	...	...	10
Noes	...	...	...	9

Majority for 1

AYES.	NOES.
Hon. A. Dempster	Hon. W. Kingsmill
Hon. J. W. Hackett	Hon. R. Laurie
Hon. W. T. Loton	Hon. M. L. Moss
Hon. W. Maley	Hon. B. C. O'Brien
Hon. P. McLarty	Hon. G. Randell
Hon. C. A. Piesse	Hon. C. Sommers
Hon. J. E. Richardson	Hon. F. M. Stone
Hon. Sir E. H. Wittevoorn	Hon. J. A. Thomson
Hon. J. W. Wright	Hon. J. D. Connolly
Hon. J. M. Drew (Teller).	(Teller).

Amendment thus passed and the clause struck out.

Clauses 5, 6, 7—put and negatived.

Schedule, Preamble, Title—agreed to.

Bill reported with amendments, and report adopted.

AUDIT BILL (No. 2).

ALL STAGES.

Bill received from the Legislative Assembly.

THE COLONIAL SECRETARY (Hon. W. Kingsmill): In moving the first reading, I ask members to suspend so much of the Standing Orders as will enable the Bill to pass through all its stages in one sitting, as an act of courtesy to another place, where the demands of the Council have been met in no grudging spirit. For the difficulty which arose on a question of privilege the Council are not to blame, and the position we took up is supported by undoubted authorities. The Government have found it necessary to adopt a procedure which, though followed in other countries on various occasions, has not yet been adopted in this State. The Bill has been withdrawn, and resubmitted with the amendments incorporated which were the bone of contention between the two Houses. We may, therefore, almost with a feeling of gratitude to another place, pass the Bill through all its stages at one sitting; for the measure is required to enable necessary changes in the Audit Office to be made as soon as possible.

Question put and passed.

Bill read a first time.

Standing Orders suspended.

Bill agreed to in the remaining stages, and passed.

PERMANENT RESERVES ACT
AMENDMENT BILL.
SECOND READING.

THE COLONIAL SECRETARY (Hon. W. Kingsmill), in moving the second reading, said: This Bill is similar to many already on the statute book, brought in to alter the purposes for which certain reserves have been created. The Bill deals practically with three reserves. These I will describe, and will explain the purposes the alteration of which is found necessary. The first is Reserve 1667A in the district of Melville, including several lots aggregating 12 acres 3 roods and 5 perches. This reserve is now dedicated to recreation purposes. We propose to add to it another comprising 1 acre 34 perches, making an area of nearly 14 acres, and to use this site for the erection of a new home for the old and indigent. The reserve is situated on this side of the river, in a position admirably situated for the purpose; and a start will be made before the end of the financial year to replace the much congested building now used as the Old Man's Home by a building on the reserve. The reserve is not very far from the property known as Dalkeith, and must be connected by road with the Claremont railway station. The road, I understand, will soon be provided. It has been the subject of considerable anxiety to myself, in whose department the Old Men's Home comes, to secure a suitable site. I think it was absolutely necessary in the interests of the old people that a site should be chosen upon river, so that these old people might add to the few pleasures left to them of fishing and watching the traffic on the river and have the views which the river affords. That is Reserve No. 1. In regard to Reserve No. 2, that refers to a portion of a reserve near Claremont. The whole reserve is set apart for recreation, and it is necessary, as the Public Works Department have sunk a bore on that reserve, that portion of the reserve should be excised from the main body of the reserve and used for water supply purposes. Members will see this is also a reasonable request. No. 3 is part of a reserve adjoining the show ground at Bunbury. Inhabitants of Bunbury are often complaining that their show ground is not large enough, and in order to meet

the growing requirements of that ground it is proposed to excise portion of the reserve and add it to the show ground. These are the objects of the Bill, and I do not think there can be any opposition to them. I move the second reading.

Question put and passed.

Bill read a second time.

IN COMMITTEE, ETC.

Clause 1—Change of parts of Reserve 1667AΛ: .

HON. F. M. STONE: The land which it was proposed to take away from public recreation was known as Point Resolution.

THE COLONIAL SECRETARY: No; it was a point farther up the river, half a mile this side.

HON. G. RANDELL: Armstrong Spit.

Clause passed.

Clauses 2, 3—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

Standing Orders suspended.

Bill read a third time, and passed.

ROADS AND STREETS CLOSURE BILL.
SECOND READING.

THE COLONIAL SECRETARY (Hon. Walter Kingsmill): In moving the second reading of this Bill, I have very much the same set of remarks to make as in regard to the previous Bill. Members know that this a measure with which we are confronted every session, generally towards the end of the session. It is found necessary to close certain roads and streets, and members will find that the gist of the Bill is really in the schedule, in which an explanation is given of the various roads and streets which it is proposed to close. I do not think there is any necessity for me to go into each individual matter. [MEMBER: Which district does it refer to?] All the districts in the State from Albany to Broome. Members will see by a glance at the schedule what municipalities and other parts of the State are affected thereby. I shall be willing to afford any information required when the schedule is before the Committee. I beg to move the second reading of the Bill.

HON. W. T. LOTON (East): Are the alterations being made at the request of the various local bodies?

THE COLONIAL SECRETARY: In most cases.

HON. J. W. HACKETT (South West): Will the Colonial Secretary allow the Committee stage to be adjourned until to-morrow, as I have an important amendment to submit.

THE COLONIAL SECRETARY: I shall be willing to meet the view of the hon. member.

HON. J. E. RICHARDSON (North): Do the inhabitants of Broome know anything about this Bill? What is the necessity for closing the streets?

THE COLONIAL SECRETARY (in reply): I have much pleasure in informing the member that the Broome Roads Board have expressed thorough approval of the steps to be taken.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Schedule:

Progress reported, and leave given to sit again.

At 6.30, the PRESIDENT left the Chair.

At 7.30, Chair resumed.

ROADS ACT AMENDMENT BILL.

RECOMMITTAL.

Resumed from 15th December. HON. M. L. MOSS (Minister) in charge of the Bill.

Postponed Clause 13—Amendment of Section 141:

On the motion of HON. M. L. MOSS, all the the words after "by" in line 2 struck out, and "striking out the last paragraph thereof," inserted in lieu.

Clause as amended agreed to.

New Clause—Minimum rate:

HON. M. L. MOSS moved that the following be inserted as Clause 14:—

A minimum rate of two shillings and sixpence may be levied on any rateable land, or, if the board thinks fit, on each of the several lots into which any rateable land may be subdivided, the annual rates in respect of which on the annual rateable value or the unimproved capital value, as the case may be, would not amount to two shillings and sixpence.

The clause had been redrafted in consequence of Mr. Randell's interjection on the second reading.

HON. G. RANDELL: What was the interpretation of "subdivision"?

HON. M. L. MOSS: It meant a subdivision as mentioned in the Transfer of Land Act, 1893. It was land subdivided by a plan lodged in the Titles Office; land which was included in one grant and subdivided into allotments according to the plan of subdivision. The fixing up of a number of fences on a man's agricultural property or station property would not be a subdivision in the sense understood by the Transfer of Land Act.

HON. W. MALEY: There might be several tenants of the fenced blocks.

HON. M. L. MOSS: That was not what was understood by the subdivision of land. It was where a proper plan had been lodged at the Titles Office to enable the dealing in the land.

HON. C. A. PIESSE: It could not possibly do any harm to insert "by survey" after the word "subdivided."

HON. M. L. MOSS: There might be a subdivision by survey, yet a plan might not be lodged in the Titles Office.

HON. C. A. PIESSE: The land might be subdivided into three or four paddocks.

HON. W. T. LOTON: No doubt some trouble had arisen over this matter. A person might have land close to a township, a fairly large area which was surveyed and divided into allotments of half an acre or an acre each. There might be no demand for that land, but the owner after having gone to the expense of the subdivision was called on by the roads board to pay 2s. 6d. on each lot. Perhaps the lots were not worth £5 each, or they might not be saleable at all. A man might have 100 acres cut up into 50 allotments and the whole of the land might only be worth £150 or £200, yet the owner would have to pay 2s. 6d. on each lot. That was where the hardship came in. Owners would have to trust to the commonsense of the different boards. The clause was not mandatory.

HON. W. MALEY: There was a good deal in the contention of Mr. Piesse; and Mr. Moss might not object to a reasonable amendment to insert after "subdivided" the words "by deposited plan in the office of the Registrar of Lands Titles."

HON. F. M. STONE moved that after "subdivision" the words "for sale, leasing or partition" be inserted. If land was cut up for sale a plan would have to be deposited, or if land was divided for

leasing a plan would have to be lodged, or in the case of a property being left to two persons and subdivided by partition.

HON. M. L. MOSS accepted the amendment.

Amendment passed.

HON. C. A. PIESSE moved that the words "annual rateable value" be struck out. The system of rating had proved to be unworkable and unsatisfactory. If the amendment were carried, a system of rating on the unimproved capital value would not be allowed. Some short time ago he called for a return, which was laid upon the table, showing the system of rating and the rates levied by the various roads boards throughout the State. The Arthur River board, which covered the district around Wagin, levied a rate of 1½d. in the £1 on the unimproved value, which produced £800. The Beverley board adopted the annual value, and levied a rate of 4d. in the pound, expecting to raise £221. Surely Beverley ought to raise twice as much as Wagin. Broomehill, on the Great Southern Railway, adopted an unimproved rate of ½d. in the pound. Bunbury adopted the annual value with a rate of 4d., and expected to raise £40. Ashburton adopted the annual value with a rate of 4d., and expected £40. Collie adopted the annual value, a rate of 1s., and expected £128. Coolgardie adopted the annual value with a rate of 1s., and expected £650. Esperance adopted the unimproved value with a rate of 2d., and expected £140. Greenough adopted the unimproved value with a rate of 1d., and expected £650. Katanning, a strong district, adopted the annual value with a rate of 6d., and raised the enormous sum of £230. Kojonup, 25 miles from the railway, adopted the unimproved value with a rate of ½d., and raised £160. Narrogin adopted the annual value with a rate of 3d., and expected £400. Northam adopted the unimproved value with a rate of 1d., and raised £500; while York, immediately adjoining, adopted the annual value with a rate of 6d., and raised £300. There must be something radically wrong to account for these differences. Cottesloe had taken full advantage of the Act by adopting the unimproved value and a rate of 2½d., raising £1,300. In every instance where the unimproved value was adopted, a large income re-

sulted. It was time to amend the principal Act so as to have the rating on unimproved value adopted throughout. The return from which he quoted ought to be published for the information of roads boards. Having ventilated the subject, he withdrew the amendment.

Amendment withdrawn, and the new clause as amended agreed to.

Bill reported with farther amendments, and the report adopted.

MINING BILL.

IN COMMITTEE.

Resumed from the previous day.

THE COLONIAL SECRETARY: A telegram had been received from a member interested in the Bill, who stated he was detained at Fremantle on important business, and asked that the Bill might be postponed. At any other time postponement would have been unobjectionable, but as the session was drawing to a close the Government could not consent to delay. To test the feeling of the House he moved that progress be reported.

Motion formally put and negatived.

Postponed Clause 67—Right of entry pending application:

THE COLONIAL SECRETARY: Mr. Lane had moved an amendment to give the applicant for lease exclusive use of one-fourth of the land for buildings, shafts, and workings. This would be dangerous, as the applicant might thus secure out of 24 acres containing alluvial an exclusive use of six acres. The clause was sufficiently liberal, and would, in conjunction with Clause 77, make the applicant's position much more secure than under the existing law.

Amendment negatived, and the clause passed.

New Clause (saving existing rights):

SIR E. H. WITTENOOM moved that the following be inserted as Clause 165:—

None of the provisions of this part of this Act shall apply to or affect any contract made by or on behalf of the Crown prior to the coming into operation of the Imperial Statute called "The Western Australian Constitution Act, 1890," with respect to any lands situate in the State of Western Australia.

The clause referred to Part VI. of the Bill, dealing with mining on private lands. To tamper continually with the rights and titles of land-owners was

inadvisable; yet these titles were constantly being altered, and by such alterations their strength was impaired, their value diminished, and confidence in them shaken. The fundamental principle of land ownership was an indefeasible title; and once people had acquired land from the Crown by a fair bargain under proper conditions and with a title agreed to by the Imperial Government, that title should be undisturbed unless in case of pressing necessity. The new clause covered no land save that granted prior to Responsible Government; for whatever had been done since had been done by representatives of the people, and the people were responsible. Take the cases of certain companies who had received Crown grants conferring privileges more or less valuable, such as the Hampton Plains Syndicate and the Midland Railway Company. In the case of the former, a large area was purchased at 2s. 6d. an acre, a price very acceptable to the Government, who sold not only the land but the minerals and the precious metals, saving a royalty which was afterwards released by some arrangement. The company were induced to buy by the offer of a certain consideration; and the Bill attempted to some extent to vary that consideration. Clause 115, which gave the interpretation of "private land," was entirely retrospective. Part VI dealt with land which had been exempted and alienated from the Crown since the 1st January, 1899, and commencing at Clause 154 this part dealt with lands exempted and alienated from the Crown since that date, so that the Bill embraced all lands that had been sold. Clause 154 gave the right to any person to petition that lands should be brought under the Bill, making it compulsory for people to mine on the land themselves, or for the Government to resume the land and take it from those who held it. Land had been granted to certain companies with the minerals contained in the land. In the case of the Midland Company, the land was granted with all the minerals except gold, silver, and precious metals. When that company was floated, it was put to the investors, as an inducement, that the land was granted with the baser metals, and when debentures were issued it was pointed out to investors, with the

permission of the Government, and their full knowledge and consent, that one of the great securities was the baser metals contained in the land—excepting gold, silver, and precious metals. If that was not sufficient to protect the rights of those persons the Constitution Act contained a clause which was intended specially to preserve the rights of those who had already dealt in this land, and who had transactions with the British Government. In the Constitution Act of 1890 it was provided that—

Nothing in this Act shall affect any contract or prevent the fulfilment of any promise or engagement made before the time at which this Act takes effect in the colony of Western Australia, on behalf of Her Majesty, with respect to any lands situate in that colony, nor shall disturb or in any way interfere with or prejudice any vested or other rights which have accrued or belong to the licensed occupants or lessees of any Crown lands within that colony.

Therefore it was intended by the Act granting Responsible Government that the titles of the land should not be interfered with. If this was not sufficient, there was farther evidence of what was intended in the case that was brought before the court the other day, in which Sir James Lee Steere sued the Government who wished to take away his lease and he got a verdict. If it was right that the Government could not take away the surface of a leasehold, they could not take away the baser metals in a freehold. This case was conclusive that the titles conserved to the people who got them, the land which they were granted. If titles were to be changed, what confidence could anybody not living in Western Australia have in titles which were granted by this Government; it was almost confiscation. The Government sold land with the baser metals, and then a Bill was brought in to take these baser metals from the owners of the land. It was often in the interest of a country that land should be worked in a certain way, and he was perfectly aware there were circumstances in a country by which much greater advantage could be taken of the conditions that prevailed, but we should not overlook the fact that the Government having given certain rights, and people having traded on these legal rights and bartered them to a certain extent, it was not right that any power

should be given to the Government to act in a retrospective manner and take away these rights. If this was continually to go on, what prospect had anyone of taking a title to a financial institution in Great Britain or anywhere else? These institutions would say, "What is the use of the title; it may be granted to you one day, and in a few days' time the Government may bring in a Bill to take away your rights." This was not to the advantage or good of the country, and it was to be hoped that members would look at the matter, not from a prejudiced view, or that certain people or companies connected with the matter had certain titles, but that members should look at the matter in a broad-minded way, and not that it affected this or that company. This Bill would affect all titles issued before the year 1890, which were granted by the Imperial Government, and those titles should be respected. As to the Midland Company, Clause 49 absolutely contracted, prescribed, and set out the form in which land grants could be given, and did not reserve anything except the precious metals; the Bill was an effort to take these rights away. We were not here to look at individual cases, but broad principles, and one of these principles was that we should try and hold inviolable the rights to property for which people had already paid.

THE COLONIAL SECRETARY: It was to be hoped members would not be carried away by the remarks of Sir Edward Wittenoom. The first duty of a Government was to legislate in the best interests of the State; and on this question, the legal aspect of which would be dealt with by Mr. Moss, there was no doubt on which side the best interests of the State lay. Sir Edward Wittenoom had addressed himself to the cases of two companies, but members should contrast in their minds the aspect which these two companies had taken up with regard to concessions and the tolerance of mining on their lands. In the case of the Hampton Plains Syndicate, that company had practically adopted the regulations of the Mines Department. They were content with the same rents as the Mines Department, and they had even now done away with the royalty to be paid on gold; but in the case of the other company we found that extremely

severe conditions were placed on persons who wished to work any sort of mineral within the boundaries of the land held by the company. There was a fair amount, not of gold, but of the baser metals, within the boundaries of the lands of the Midland Company. In the one case it was found that a company was willing to assist the mining community of Western Australia to the best of their power, and in the other case a company apparently did not wish to assist the mining community, but objected to mining being carried on. It was the opinion of the law officers of the Crown that the Government could legislate in this matter, and it was only due to the best interests of the country that legislation should be enacted; whether that legislation was right or wrong could be tested in the law courts of the State afterwards. The hon. member had quoted the case of the late Sir James Lee Steere, in which a verdict had gone against the Crown; that case was still *sub judice*, an appeal having been lodged against the verdict, and that appeal had not yet been heard. It would be almost an indecent thing for Parliament to practically decide as to the merits of a case by legislating in the direction which the hon. member desired. It was right in the best interests of Western Australia that this proposal should not be passed but that the clauses of the Mining Bill should come into effect. He was surprised at the member quoting certain clauses in the agreement of a company, because he had heard vague rumors of breaches of the agreement, and why these clauses should be supposed to be any more binding than the rest he could not see.

HON. T. F. O. BRIMAGE supported the new clause. Security of title to land was essential to good Government; and even if we could annul the titles of the companies indicated by Sir Edward Wittenoom, we ought not to do so. The endeavour to give good titles to mining lessees had renewed the prosperity of our mining industry. British and foreign financiers were ever ready to run us down when we made mistakes; so it was in our interest to strictly perform contracts made with outside investors. The opinion of Sir Edward Wittenoom was of great value, in view of his long service as Agent General.

HON. M. L. MOSS: True, under Subsection 2 of Section 4 of the Constitution Act provision was made that nothing in the Act should affect compacts or agreements as to land, if these were made before the granting of Responsible Government; but the Crown Law officers advised that the State had a right to authorise mining on such lands; and whether the section should have Sir E. Wittenoom's construction placed on it ought to be decided in the law courts. He (Mr. Moss) had grave doubts whether Subsection 2 was capable of any such construction; for if it were the Crown had not since 1890 the right to resume any land for public purposes. That would be a monstrous contention.

SIR E. H. WITTENOOM: The owners allowed such land to be resumed by arbitration.

HON. M. L. MOSS: That was not the view taken; for if it had been, the Government of the country could not have been properly carried on, as no land could have been compulsorily resumed. At one time it was impossible in Australia to go on private lands for mining purposes. In the grants the precious metals were not expressly excluded; but the law always was that these never passed unless expressly specified. Nevertheless it was at one time difficult to ascertain how miners could go on private lands without being trespassers; so in 1897 we passed an Act giving the right to mine on private property; and when that was found defective in drafting, another Act was passed in 1898, which defined private land as any land alienated from the Crown, except land granted under the Goldfields Act of 1895, which it was not necessary to include, inasmuch as there was the right to mine on it. The Act of 1898 received the Royal assent; and the power to disallow was never exercised, though the Act affected the Midland Railway Company as to the right to mine for gold on their property.

SIR E. H. WITTENOOM: They were protected by the subsection in the Constitution Act.

HON. M. L. MOSS: If so, they had the same protection now; therefore pass this Bill, going one step farther than in 1898. Section 56 of the 1898 Act specially referred to the Hampton Plains

syndicate grant, which included all precious metals. The Act practically set out and determined the meaning of the agreement with the syndicate. The syndicate had to pay a royalty of 2s. an ounce to the Government in respect of all gold obtained; and the Act released that royalty on condition that regulations were agreed to by the syndicate and gazetted, allowing mining by private persons on the land. These regulations were accordingly approved and gazetted, and the property of the syndicate was now as open to the public as were any lands under the Goldfields Act. The principle of permitting the public to go on private lands for precious metals was thus affirmed, and the provisions of this Bill went one step farther, by enabling persons to enter private property to mine for minerals other than the precious metals. Land had been sold in cities, towns, and rural parts of the country, and the rights of the people who bought this land were quite as safe as those of the Midland Railway Company with respect to land given to them as a subsidy for the construction of public works. In the public interests it had been found necessary from time to time to say that the Government should have the right of resumption of land for public works, and full compensation was given. The same provision as to compensation that existed in the Public Works Act, providing for land being taken for public purposes, existed in this Bill. No person would have his land confiscated, but in the interests of the State if land contained minerals which were not being worked it was the duty of the Government, if Parliament would give them the power asked in the Bill, to take the land and pay full compensation and throw the land open to be worked in the way which would give the best return to the State. The time had gone by for the Midland Company, or any other company or private person, to prevent the march of progress in the State. If in the interests of the State private property should be resumed the owner, so long as he received full compensation and it was in the best interests of the country for the land to be taken for certain purposes, must submit. Nothing had assisted the development of the country more than the gold mining industry and nothing in the

future would tend to its development more than gold and coal mining and the obtaining of the valuable metals and minerals. Any Government or Parliament would be severely wanting in their duty if they placed obstacles in the way of any mineral land being worked to the utmost advantage. Everybody admitted that the prosperity of Western Australia almost entirely depended on the progress of the mining industry and in order to encourage that industry and give the country more prosperity, the Parliament would do well to agree to the Bill, and not agree to the amendment.

HON. C. A. PIESSE: The hon. member would have made out a better case if he had been pleading for the other side, and had quoted Subsection 2 of Section 4 of the Constitution Act to back up his argument. There was no getting away from that section. It kept sacred the rights of the landholders and leaseholders of the country. He had always thought that the existing rights of people should be held sacred, and no legislation should be brought forward to interfere with rights which had been given. This country had encouraged people to take up land under the conditions on which they held it. Take the Midland Railway Company. Everyone in the country was eager that the contract with that company should be signed, and the Government would have gone farther in those days to get the company to sign the contract. It had turned out that the agreement had not been to the advantage of the country, but it was expected in those days that it would be. We should not deal with the Midland Company by interfering with their existing rights. We had to deal with the conditions which the Government in past days were only too willing to grant. Take the Hampton Plains Company. How eager the Government were to sell the land at 2s. 6d. per acre to that company. It was proved subsequently that the step was wrong, but the Government were anxious in those days to make a deal with that company. There was only one way of overcoming the difficulty, which was by mutual arrangement and fair compensation being paid. There was no other way in which we could interfere with the sacred contract surrounding these rights. We had encouraged these

people to incur certain responsibilities, and we had taken value from them; now an endeavour was made to twist and twirl the agreement and do all we could to interfere with their existing rights. Members should do what they could to prevent any infringement of the rights which these people held.

HON. C. E. DEMPSTER: In the Act which gave this country responsible government the Imperial authorities provided that all rights held up to that time should be regarded as sacred, and we should hold all contracts sacred in regard to land. If it was necessary in the interests of the State that the Government should acquire certain lands where coal and other minerals existed, the Government had the right to acquire the land by paying fair compensation for it.

THE COLONIAL SECRETARY: Compensation was provided for in the Bill.

HON. C. E. DEMPSTER: There was no reason why the Government should introduce retrospective legislation to upset existing rights. He had always been against retrospective legislation, and this was not the first time that such legislation had been introduced. He would support the new clause.

HON. J. M. DREW opposed the new clause. He failed to see why persons who took up land prior to 1890 should be exempted from the conditions of Part VI. of the Bill. He failed to see why those persons should be exempted, or on what grounds of justice they claimed the right. It was true that in the Constitution Act of 1890 there was a provision which stated that "nothing in this Act shall affect any contract or prevent the fulfilment of any promise or engagement made before the time at which this Act takes effect in the colony of Western Australia"; but the question that arose was, did the clause override Part VI. of the Bill. Sir Edward Wittenoom and Mr. Piesse said that it did. If so there was no necessity for the new clause, because those persons had already sufficient protection in the Constitution Act of 1890. Assuming that the Constitution Act did apply and did override Part VI. of the Bill, the question arose was the Constitution Act unalterable? He had a vivid recollection of alterations being made in the Constitution Act during

the last few years: he would give one instance, the grant to the aborigines. That was an important point, and the Imperial authorities insisted that one per cent. of the gross revenue should be devoted to the aborigines of the country. A few years ago that section of the Act was amended and the Imperial authorities consented to the amendment. If the case was put before the Imperial authorities that it was in the interests of the State that legislation should pass, the Bill would receive their sanction. Was the legislation contained in the Bill desirable? He spoke on behalf of his province, and in the Northampton district there had been for 20 to 40 years valuable lead and copper mines locked up, and the progress of that district had been prevented. At one time it was a mining district pure and simple, but all the mines were in the hands of private individuals. There were coal areas on the Midland Railway Company's lands, and this company had held these areas for 13 years and had not put a pick into them. How long would that continue? If we had to accept the argument of Sir Edward Wittenoom, it was to continue for ever. It seemed that the particular date on which land was applied for had no bearing on the question. It could not interfere with or overcome the great principle that no individual or individuals should lock up the natural resources of the country; no one should be able to close the avenues of the national wealth. We had heard something about vested interests. Almost every measure introduced into the Chamber interfered in some measure with vested interests and rights. The Factories Act was an interference with vested rights and interests. The Noxious Weeds Bill interfered with vested rights. People who took up land prior to 1890 never anticipated that there would be a Noxious Weeds Act. When it was proposed to levy a land tax here those who took up land prior to 1890 would claim exemption from a land tax, and they might go farther and claim immunity from municipal taxation. It had been stated that the Imperial Government inserted a clause in the Constitution Act. He might be wrong, but he thought it was inserted in the Parliament of Western Australia. [Hon. J. W. HACKETT: No.] Then he withdrew that

statement. He hoped the Government would stand firm in connection with this momentous matter which affected the State.

HON. J. W. HACKETT: After listening to Sir Edward Wittenoom, who admirably controlled his face and never smiled, listening also to the astounding speech of Mr. Piesse and to Mr. Dempster, would the House set back the clock for a dozen years? The principle which the amendment would destroy was neither new nor very ancient: the battle was fought and won in this State about a dozen years ago. Even the Upper House of Victoria, elected on a most restricted basis for electors and members, and led by a boasted conservative, had accepted this principle. The Victorian contest turned on the point that the precious metals could not be conferred save by special grant from the Crown, and never passed by implication. They were reserved in all Crown grants, but no right of access was allowed to the Crown; consequently the Privy Council held that the Crown could issue licenses to mine on private lands, but could not give the licensees the right to enter. Ultimately a Mining on Private Property Act was passed in that colony. Here the principle was enforced in 1897. Any illegality in the Bill should have been pointed out by the law officers and taken to the Privy Council by those who considered themselves aggrieved; but not one word of protest as to the legality of the action was uttered, though the wisdom of the Bill was questioned. The Act was altered and reaffirmed in 1898, and again in 1899, without one protest as to its unconstitutionality. It remained for Sir Edward Wittenoom, at this late period, to raise doubts as to the legality of Part VI. of this Bill. The cry for mining on private property was almost as strong as the cry for a white Australia; and no State, unless absolutely forced by an Imperial Act, would allow the private owner of an orchard, of a newspaper, or of anything else to stand in the way of national progress. Every Australian State had passed such an Act; yet the hon. member asked us to pass a clause to nullify at least one half of the rights of the people in auriferous portions of the State. Mr. Piesse made a long speech for the clause; but Sir Edward Wittenoom did

not dwell on it, simply saying that existing contracts should be maintained. The words of the Constitution Act of 1890 were that nothing in the Act should affect any contract or prevent the fulfilment of any promise or engagement made before the time at which the Act took effect, with respect to any land in the Colony, nor should disturb or in any way interfere with or prejudice any vested or other rights accrued or belonging to the licensed occupants or lessees of any Crown land within the Colony. The Constitution Bill was submitted to able lawyers in London on behalf of the Colonial Office and of the State, and if it had been dreamt that the section would prevent a Mining or Private Property Bill, or the taxing of such lands, or the alteration of the terms on which they were granted, so long as a clear and definite wrong was not done, the section would never have been passed; because this State alone among Australian States would not have submitted to such a restriction of its natural rights and privileges. The Sovereign had expressly permitted Act after Act to pass, every one of which might, by the hon. member's construction, be held to be a violation of the section; yet that question was not raised. Sir Edward Wittenoom said the passage of such Acts was a matter of agreement. It was agreement on compulsion. Doubtless the sense of the section was taken again and again since Responsible Government was granted. The section was a commonplace, frequently cited in conversation; but not one lawyer was ever found to say that it hampered the right of the people to tax land, to arrange fresh conditions of tenure, or generally to make such laws as were thought proper for the benefit of the State. In Victoria, after the discovery of gold, every land-owner had an absolute right to certain privileges. Parliament passed a law abrogating every such privilege, and offering in exchange a paltry homestead area of 640 acres; and the land-owners, who were the law-makers, accepted that. Through the discovery of gold such lands had become of enormous value; the accruing fees of the private owners were held to convey a property which was inimical to the public interest; and not one land owner had the courage to say that the Act ought to be disallowed by

the Imperial Parliament. Nor would this State consent to two sets of laws running side by side with regard to mining on private property. We must either abandon the exemption of those to whom land was granted prior to 1890, or confer similar rights on every land owner.

HON. C. A. PIESSE: Buy them out.

HON. J. W. HACKETT: The Treasurer had not Fortunatus's purse at his hand. The hon. member's interjection answered his own case. The passage of the clause would raise an irresistible agitation for the adoption of some very different provision, which would be adopted within 12 months. Excellent terms were offered by the Bill to the private owner; but his rights ought not to be absolutely impregnable. If it were found that certain land owners who had done little for the benefit of the colony, and who had announced themselves as determined not to develop one of the finest estates in the British Empire, until, by the natural increment of wealth and population, due to the exertions of others, the land had attained an immensely enhanced value, or until they could by various means compel the Government to buy them out on their own terms, then the working miner, finding these huge exempted estates beside him, and the ordinary farmer finding himself compelled to allow the miner to enter on his land while these estates were exempted, would raise such an agitation as this House, were it 20 times stronger, could not withstand for 24 hours. Either the section of the Constitution Act which had been quoted gave Sir Edward Wittenoom all that was desired in the way of protection and safeguard—he ought to be content with that which placed him on the same level as all his fellow subjects of Western Australia—or it meant nothing at all. If it meant nothing at all why confer rights which never had been acquired or which nothing was being done to secure the retention of. If, on the other hand, it carried the meaning which Mr. Piesse thought it did, it was unnecessary for us to blot the statute-book with a clause of the description which could never become a permanent law, and which would have the effect of raising the whole State against the mining legislation of this

State ; and would stand right across the path of national progress.

HON. W. MALEY: No doubt there was power to pass this regulation to prevent the bursting up of the estate of the Midland Company and other big estates, such as the Hampton Plains Syndicate. He had no sympathy with either of those companies, or with the dog in the manger style with which they carried out their duties towards this State; but while he had no sympathy with them, and while he was satisfied that by legislative enactment the rights of any people in the State could be taken away, still he was not satisfied that the Government would gain in the long run by doing anything of the kind. If the wealth was in the bowels of the earth it would be brought to light sooner or later. We could do what was necessary in a honest and straightforward manner without breaking a contract which had already been made with an individual. We should do the straight thing, and that was to keep to our contract for a contract had been made, and the new clause referred to a distinct contract made.

HON. J. W. HACKETT: It made a new contract.

HON. W. MALEY: It was no new contract.

HON. J. W. HACKETT: Quite a new point.

HON. W. MALEY: Dr. Hackett had referred to the manner in which one of the Eastern States had fixed up a similar matter to this by granting blocks of land of 640 acres to the owners of certain mineral lands.

HON. J. W. HACKETT: No; he went back to another illustration which happened 25 or 30 years before the mineral question came up. The point was this: certain persons possessed by a lease from the Crown, immense rights of purchase at a nominal figure, and all these rights were taken away, and in their place the persons were given blocks of land of 640 acres in extent.

HON. W. MALEY: That was commandeering certain rights; it was saying to the people, "You take this, or you will have nothing." Take the case of the Mount Morgans mine, which was a freehold of 640 acres. The Queensland Government were very short of money when they sold that freehold, but they

made a certain compact, and notwithstanding the shortness of money now, and being severely pressed, we had never heard that the State of Queensland ever said they would commandeer the Mount Morgans mine and give it to the people of the State.

HON. M. L. MOSS: The mine was being worked.

HON. W. MALEY: The Government of Queensland did not take that property on the ground that it was necessary for the future development of the State and to keep the wolf from the door. There was no stronger argument than that. If members wished to split straws by referring to the working of the property, and if it was a question of need, need had come in Queensland. If we were to carry out what we are asked to do to-day there was no security in dealing with the Government of Western Australia. For all time it would stand against the Government that they made certain contracts, and when it did not suit them they broke those contracts; and by an Act of Parliament annulled those contracts to suit the temper of the public for the moment. If it was necessary that the House was to be attacked he would stand to his guns and he would not be one to support anything in the way of commandeering, or as Sir Edward Wittenoom said, confiscation.

HON. T. F. O. BRIMAGE: Seeing the Government were raising strong objection to the new clause, did the owners of the large estates mentioned refuse to pay the proper taxes of the country? Had they stopped prospectors mining on those properties? He did not think so. At the present time mining was in progress on the Midland Company's lands, also on the Hampton Plains land. These people had received large tracts of country from a former Government, and they were obeying the law and paying the natural taxes and complying with all the conditions that Parliament imposed.

SIR E. H. WITTENOOM: There need be no undue excitement over this matter, or any undue warmth imparted into the debate. It was not a question of the merits of one company or another, or what was done or what was not done. The question was whether the Mining

Bill was to interfere with the titles granted to people or not. The question was whether titles granted on the faith of the Imperial Parliament, and which gave people certain privileges for certain considerations, were to be respected; or whether the Government were to have the power to enter on these properties which had already been conveyed away and interfere with the privileges that had been extended. The Colonial Secretary had stated that it would be better to carry the legislation and test the matter afterwards in the courts. What an exceedingly pleasant invitation for everybody, to go into litigation. It was better to have the matter plain and settled before litigation was entered upon. It seemed clear that these grants were given under the signature of the Crown and the rights of the people were defended under a provision put into the Constitution Act. These rights were again defended by the decision of a case tried in the Supreme Court. Under these considerations we might assume that the rights should be respected. Dr. Hackett had said that if there was a section in the Constitution Act there was no need for the amendment. That might be so, but by introducing this amendment it made perfectly clear what was intended. It placed the matter beyond all dispute and legal proceedings. He wanted to know whether or not the House intended to respect the rights, not of any particular company, but those which had been given to land alienated. It was important that every title a person got from the Crown should be free, not only titles to land but a mining lease or anything else. He did not desire to defend the Midland Company in regard to whether they had developed their property as they should have done, for he was prepared to admit that they had not done so. He was not defending the Hampton Plains Syndicate. He instanced those cases, for those companies had certain rights; they had placed those rights before people to obtain money to develop this country, and on the strength of those rights people gave them money to develop this country. Now Parliament was prepared to take those rights from the companies affected. It was said compensation was to be paid. How did we know that the compensation given would be what was fair?

HON. M. L. MOSS: It would be full value.

SIR E. H. WITTENOOM: Who was to say what was full value?

HON. M. L. MOSS: A Supreme Court Judge and two assessors.

SIR E. H. WITTENOOM: Who was to say that the companies would consider what was awarded them was full value. He admitted that in the past persons got more than their full value. The argument of Mr. Moss was that if the land was taken away the owners would be paid compensation. His idea, based on commercial lines, was that it was better to buy land than force people to part with it. Under those circumstances everybody was satisfied. It had been stated by Dr. Hackett that the Midland Company held their land and continued to hold the property, so that it would improve by the unearned increment.

HON. J. W. HACKETT: What he had stated was that it was publicly stated on behalf of the company, and the authority he had for it was the *Times* newspaper, and the speaker was the chairman of the Midland Company.

SIR E. H. WITTENOOM: The idea conveyed to his mind was that the Midland Company would not part with their land so long as it was being improved in value by the development of the State. He (Sir E. H. Wittenoom) was in a position in London to have bought the whole of the Midland Company's property at a reasonable price, to be paid by our inscribed stock at market value.

HON. J. W. HACKETT: It was a pity it was not bought.

SIR E. H. WITTENOOM said he was not allowed to go on with the negotiations. He mentioned this to show that the Midland Company were willing and anxious at that time to sell to the Government for something like £1,250,000. No one would say that was an outrageous price when it was understood that not a single shareholder who started in that business would see one penny of his money back again. He wished to leave the matter entirely in the hands of members. The question of title was the whole thing, not whether one company was doing good or bad. Were we to consider a title given by the Crown, and prescribed by the rights of the Constitution Act, was to be respected or not, or

if it was to be subject to continually changing legislation or continually changing Parliaments.

HON. J. W. HACKETT: Every State in Australia had considered this question and had decided in favour of mining on private property.

HON. W. T. LOTON: Many members seemed to think that land titles were indefeasible; but this idea was erroneous. The desire of Parliament was that if the owners of any land found to contain minerals would not work these, then the Government might resume, and pay the full value so that the minerals might be worked for the benefit of the State. He would vote against the new clause.

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

Ayes	...	...	...	6
Noes	...	...	...	11

Majority against ... 5

AYES.
Hon. A. Dempster
Hon. C. E. Dempster
Hon. W. Maley
Hon. C. A. Piesse
Hon. Sir E. H. Wittenoom
Hon. T. F. O. Brimage
(Teller).

NOES.
Hon. E. M. Clarke
Hon. J. M. Drew
Hon. J. W. Hackett
Hon. W. Kingsmill
Hon. W. T. Loton
Hon. E. McClarty
Hon. M. L. Moss
Hon. B. C. O'Brien
Hon. G. Randall
Hon. C. Sommers
Hon. J. A. Thomson
(Teller).

Question thus negatived.

New Clause—Declaration with gold sent by post or escort:

THE COLONIAL SECRETARY moved that the following be inserted as Clause 217:—

When gold is forwarded to an incorporated bank licensed under this part by post or police escort, the sender may make a statutory declaration, in the prescribed form, of the name and address of the buyer and seller, and of such other particulars as may be prescribed. Such declaration may be made before a Warden, Mining Registrar, Resident Magistrate, Justice of the Peace, Postmaster, Minister of Religion authorised to celebrate marriages in the State, or police officer or constable, and when filed in the gold dealer's book shall be in lieu of an entry under the two last preceding sections, and shall be deemed a compliance therewith.

Question put and passed.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

RECOMMITTAL.

On motion by the COLONIAL SECRETARY, Bill recommitted for amendment.

Clause 4—Repeal, Schedule 1:

THE COLONIAL SECRETARY: When the clause was first considered an amendment was passed to stand as Subclause 1. "Nothing in this Act contained shall in any way prejudice or abridge any of the rights or privileges acquired under any Act or Acts repealed hereunder." This would mean that the Bill, while ostensibly repealing the several existing Acts dealing with mining, would in reality keep them alive; and he was advised that the amendment would be absolutely fatal to the administration of the measure. He had then warned members that he would take the first opportunity of testing the feeling of the House on recommitment as to this and the subsequent amendments made in the clause. He moved that the words referred to be struck out.

Amendment passed, and the subclause struck out.

THE COLONIAL SECRETARY: By a previous amendment, the words "Subject to the provisions of Subclause 1 hereof" were prefixed to Subclause 1 as printed. He moved that the words so prefixed be struck out, as they had now no meaning.

Amendment passed, and the clause as amended agreed to.

Bill reported with farther amendments, and the report adopted.

ADJOURNMENT.

The House adjourned at 18 minutes to 10 o'clock, until the next day.