"of the Council and of the Assembly to "meet for the purpose of the said election "in the Assembly's room at noon of the "twenty-sixth day of August, 1897, and "shall himself then and there attend, and "till fifty minutes after noon receive "nomination papers nominating can- "didates for the vacant seat." The ordinary procedure has been gone on with, and the election will proceed as usual; but instead of fifteen days between the issue of the writ and the day of nomination, and two days between the date of nomination and election, there is only one hour.

Question put and passed.

Bill read a second time.

Bill passed through committee without amendment, reported to the House, and report adopted.

THIRD READING.

Bill read a third time, and *passed*.

ADJOURNMENT.

THE MINISTER OF MINES moved "That the House, at its rising, do adjourn until eleven o'clock to-morrow morning."

Put and passed.

The House adjourned at 9·15 p.m. until the next day.

Legislative Assembly,

Wednesday, 25th August, 1897.

Papers Presented -Question: Rebate of Duties on Supplies for Foreign Ships--Question: Fisheries Licenses--Question: Kalgoorlie-Menzies Railway Contract--Question: Proposed Claremont Municipality Question: Duty on Imported Pumps and Pipes—Motion: Rebate of Duties on Supplies for Foreign Ships--Treasury Bills Act Amendment Bill; third reading Commonwealth Bill; in Committee; Re-Committal; Presenting Amendments to the Convention—Vacancy in Federal Convention Bill; all stages Hainault Gold Mine Bill; debate on Motion to suspend Standing Orders Adjournment.

THE SPEAKER took the chair at 4·30 o'clock p.m.

PRAYERS.

PAPERS PRESENTED.

THE MINISTER OF LANDS (Hon. George Throssell) laid upon the Table the following papers: (1.) Regulations for the Control and Management of the Pearl Shell Fishery at Sharks Bay. (2.) Regulations under "The Fishery Act, 1889." (3.) Regulations under "The Stock Diseases Act." (4.) Regulations under "The Homesteads Act, 1893."

QUESTION—REBATE OF DUTIES ON SUPPLIES FOR FOREIGN SHIPS.

MR. HIGHAM, in accordance with notice, asked the Premier:—(1.) Whether it was his intention to formulate regulations which would facilitate the rebate of duties paid on goods supplied to foreign shipping, or re-exported from the colony? (2.) Whether he was aware that the Frozen Meat Company had been debarred from supplying meat in bond to foreign shipping. If so, why?

THE PREMIER (Right Hon. Sir J. Forrest) replied:— (1.) The question is being considered. (2.) The Frozen Meat Company have been debarred from supplying meat to other ships in harbour without paying duty, as such a proceeding is contrary to law (*vide* Sections 255, 257, and 268 of the "Customs Consolidated Act, 1892").

QUESTION—FISHERIES LICENSES.

MR. SOLOMON, in accordance with notice, asked the Premier—(1.): Whether the Government would, at an early date, take into consideration the necessity of

issuing licenses, and of making adequate regulations whereby fishermen at Fremantle and elsewhere in the colony would be restricted in their operations, more especially as regards the size of mesh used in nets? (2.) When taking the matter into consideration, whether the Government would ask for suggestions from the leading professional fishermen of the ports of the colony?

THE PREMIER (Right Hon. Sir J. Forrest) replied: (1.) The whole question of the management of Fisheries has been under consideration by the Government, and the services of an expert have now been obtained for the purpose of inquiring into the present condition of the industry, and to report as to the best means to adopt for its protection and maintenance. (2.) The officer in question will be instructed to confer with the leading professional fishermen and others interested in the fishing industry.

QUESTION—KALGOORLIE-MENZIES RAILWAY CONTRACT.

MR. GREGORY, in accordance with notice, asked the Director of Public Works:—(1.) Whether the lowest tender for the construction of the Kalgoorlie-Menzies Railway had been accepted by the Government? (2.) What period would be allowed to elapse after acceptance of such contract before successful contractor shall sign the contract?

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied:—(1.) The contract approved by the Government and the acceptance are in course of preparation by this Department. (2.) Seven days.

QUESTION—PROPOSED CLAREMONT MUNICIPALITY.

MR. OLDHAM, in accordance with notice, asked the Premier:—(1.) Why delay had occurred in granting municipal privileges to Claremont? (2.) Whether any petition had been received from any of the residents asking the Government to refuse this request? (3.) How many signed this petition? (4.) When this question was likely to be settled?

THE PREMIER (Right Hon. Sir J. Forrest) replied:—(1.) The delay has been occasioned by investigating the objections which have been raised to the creation of a municipality with boundaries as asked for. (2.) Not against the granting of municipal privileges, but against the proposed boundaries of the municipality. (3.) Five. (4.) The Government are now in communication with the requisitionists on the matter.

QUESTION—DUTY ON IMPORTED PUMPS AND PIPES.

MR. WALLACE, by leave without notice, asked the Premier why mining machine pumps, and parts of such pumps, were on the Customs free list, while pipes which were only portions of pumps were charged at the rate of 5 per cent.?

THE PREMIER said that the provisions of the Customs Act were carried out by the Collector of Customs who, in case of any difficulty, referred to the Crown Law Officers, by whom he was advised. It did not follow at all that because pumps and mining machinery were admitted free, pipes should also come into the country without paying duty.

MR. ILLINGWORTH: The pipes referred to in the question were pipes belonging to mining pumps.

THE PREMIER understood what the hon. member for Yalgoo had said, but he took it that pipes were a separate item of the tariff list, and there were, of course, various kinds of piping. Then, again, there were a great many people engaged in the pipe industry in the colony. If a question, in writing, were formulated on the subject, he would have inquiries made into the matter.

MOTION—REBATE OF DUTIES ON SUPPLIES FOR FOREIGN SHIPS.

MR. LEAKE moved the adjournment of the House, in order to call attention to the reply given by the Premier earlier in the afternoon to a question asked, in accordance with notice, by the hon. member for Fremantle, respecting the rebate on goods supplied to foreign shipping. The answer given to the question was, he said, not a fitting or proper one. The Premier stated that, if goods were allowed to be supplied in the manner desired, it would be in contravention of the smuggling enactments; but the hon. gentleman entirely overlooked the section of the Act which enabled him to make

the very provision which the hon. member for Fremantle required for the transhipment of goods.

THE PREMIER: The matter is being considered, but there are no regulations yet.

MR. LEAKE: Section 233 of the "Customs Consolidation Act. 1892," was as follows:—

> Upon the importation of any goods, it shall be lawful for the Collector to allow the same to be transhipped from the importing ship to any other ship not being less than thirty-five tons gross registered tonnage, if the goods be for exportation, or twenty-five tons gross registered tonnage if for removal coastwise: Provided that a bond be entered into for the satisfaction of such Collector if the goods be liable to duty.

THE PREMIER: Yes; but the goods in question were for use on board ship while in harbour.

MR. LEAKE: The meaning clearly was that the goods were for use on the intended voyage.

MR. A. FORREST: No; for use in the harbour.

MR. LEAKE: There spoke a voice from the meat ring.

MR. A. FORREST: While foreign ships were bringing meat to the port of Fremantle and paying 30s. per head duty on cattle, and 2s. 6d. per head on sheep landed on one side of the wharf, it was very unfair that a vessel lying at anchor within a few hundred yards should be allowed to supply, by steam launch, the whole of the shipping in port with dutiable stores. Butchers in Perth and Fremantle were unable to compete under the circumstances, and there could be no question as to the injustice of this Frozen Meat Company being allowed for so many months to defraud the revenue of the country to the large extent that they had done. Under the circumstances, the Government were quite right in collecting the duty, so long as the present Act remained in force.

MR. SOLOMON said the remarks of the hon. member for West Kimberley showed the reason why this duty had been put on. It was not a protective duty; but if a protective duty was necessary, why should we tax every man in the country, while squatters said that to a very great extent they could do without it. [MR. A. FORREST: Who said so?] A great number of squatters had said that so far as this was a protective duty, its abolition would make very little difference to them. [MR. A. FORREST: Name them.] At first there was a desire to make the duty £2 a head, and the House was taken by surprise and submitted to the imposition of a tax of 30s.

THE PREMIER: The duty of 30s. per head had been imposed on cattle for years and years—for longer that the hon. member had been in the House.

MR. SOLOMON: There was no necessity for the enforcement of this special provision, and the sooner the stock tax was taken off the better.

MR. ILLINGWORTH: This was not a question of the stock tax or a question of duties, but it was a question of common justice. In every other harbour vessels were allowed to tranship goods, one to the other, duty being paid only on goods landed.

THE PREMIER: When the ship was in the harbour of Fremantle, it was in the colony of Western Australia.

MR. ILLINGWORTH: Yes; but in all ports it was permissible to tranship stores, not only for personal use but for taking away on voyages.

THE PREMIER: If it was desired not to pay duty, goods could be put into bond and taken out as required.

MR. LEAKE: Under the section of the Act I have read, it was quite permissible to tranship.

MR. ILLINGWORTH: The Frozen Meat Company was placed at a distinct disadvantage in the interests of individuals. He was not prepared to move any further in the matter, and would content himself by simply expressing his opinion that in this matter there was a palpable injustice.

THE ATTORNEY GENERAL (Hon. S. Burt) said he did not see that the member for Central Murchison, and those who were with him, had any solid argument to support their position. To trade in goods from ship to ship was clearly competing against those on shore. In every country, ship's stores were allowed free of duty, but if trading was allowed in harbour from ship to ship, it was clearly a competition against tradesmen on shore, and a contravention of the Act. Goods could be put into bond and taken out as required, and a rebate allowed if duty had been paid. People on board

ship could consume their own meat, drink their own grog, and smoke their own cigars, so long as they did not bring them ashore, or take them out of the ship. Even if they required further stores, they could get them from the shore without paying duty, if the goods were to be taken out of the jurisdiction.

MR. LEAKE: You make those people pay for ship's stores.

THE ATTORNEY GENERAL: Not at all.

MR. HIGHAM: The Government were inclined to be somewhat unjust in their action towards the Frozen Meat Co. [THE PREMIER: Not at all.] The company were not in a position to store their goods on shore, and were compelled to turn ships into bonds, as had been the practice. [THE PREMIER: Not while in port.] There were no facilities on shore at Fremantle for the storage of frozen meat. He had no desire to see the system abused, but still he thought the Frozen Meat Co. were being treated harshly, and ought to receive more consideration than apparently they had received at the hands of the Government up to the present.

Motion (for adjournment of the House) formally put and negatived.

TREASURY BILLS ACT AMENDMENT BILL.

Amendments made in this Bill having been reported, the report was adopted.

On the motion of the PREMIER, the Standing Orders were suspended to allow of the passing of the Bill through the remaining stage.

THIRD READING.

Bill read a third time, and transmitted to the Legislative Council.

COMMONWEALTH BILL.

IN COMMITTEE.

Consideration of the clauses was resumed.

Clause 57—Royal Assent to Bills:

MR. ILLINGWORTH said that by this clause the Governor General might send a Bill back to the Parliament with amendments which he recommended.

THE PREMIER: That was the constitutional practice now. It was competent for the Governor now, after both Houses had passed a Bill, to send it back for reconsideration, and His Excellency could suggest amendments.

MR. ILLINGWORTH: Verbal amendments.

THE PREMIER: There was no limit. This power was the same as that contained in No. 327 of our Standing Orders.

Clause put and passed.

Clause 58—Disallowance by order in Council of law assented to by Governor General:

THE PREMIER: A point had occurred in regard to the wording of this clause, which provided that if the Queen in Council, within one year after receipt of a law, thought fit to disallow it, on such disallowance being made known by the Governor General to each of the Houses of Parliament, the law should be annulled from and after the day when the disallowance was made known. He thought some action might be taken on the day it was made known, and that it would be better to annul the law after the day and not on the day. It seemed to him this should take effect on the day after.

Clause put and passed.

Clause 59—Signification of Queen's pleasure on Bill reserved:

MR. JAMES moved, as an amendment, that the word "two" in line 3 be struck out, and that the word "one" be inserted in lieu thereof.

THE PREMIER: This clause had given him some trouble. A Bill might be reserved for the assent of Her Majesty, and might not be taken into consideration for a long time. He asked the hon. member to explain the meaning that he attached to the clause.

MR. JAMES said it seemed to him a certain time was named, and if the Queen's assent was not given within that period, the matter would then drop.

THE PREMIER: If we did not hear for two years, then it became law.

MR. JAMES: No. If we did not hear for two years, then it dropped. Unless the assent was given within two years, there was no law.

THE PREMIER: One year should be long enough. The matter was debated in the last Convention; but he had not heard it explained so clearly as by the hon. member.

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

Clauses 60 to 62, inclusive—agreed to.

Clause 63—Ministers of State:

MR. JAMES moved, as an amendment, that Sub-section 3 be struck out. It seemed undesirable to tie the Federal Parliament down in the manner proposed. Suppose the Federal Parliament thought the Swiss system was the best one, why should they not have the option of accepting that? We should not make the constitution too rigid. So far as he knew, nobody contemplated the adoption of any other system than that contemplated by Sub-section 3; but he did not believe in tying them down to one particular system. They could not adopt the American system without completely changing the constitution; but they might adopt the Swiss system without altering it. This sub-section was not in the Bill of 1891. Why should we place any fetters in the way of the federation?

MR. MORAN: This clause had been left in after a long discussion. If the principle of Government, as now adopted, was a good one, why not retain it in the Bill?

MR. ILLINGWORTH: The provision was one which would enable the Government to obtain the services of gentlemen who might be unable to give their whole time and attention to Parliament. It had been deemed wise, in all our constitutions, to leave the Government free to this extent. It seemed to him undesirable to retain this part of the clause.

MR. PENNEFATHER: The people must rule; and yet they found the hon. member supporting the principle that a Minister of State should hold office without being a member of Parliament.

MR. ILLINGWORTH: We do it now.

MR. PENNEFATHER: But that was very exceptional. If the hon. member relied on the principle that the person who held responsible office should be responsible to the Ministry, was it not better a Minister should be responsible to the people? He did not understand how an hon. member so deeply imbued with democratic principles could support this amendment.

MR. EWING: The hon. member who had just sat down seemed absolutely to forget that in Parliamentary life, as well as in private life, and in every condition of affairs, we must be prepared for exceptional circumstances; and this was really the one clause which would prevent the Ministry of the day, in the event of a satisfactory person not being in the House to fulfil the duties of the office, obtaining that necessary man elsewhere. It was an undesirable thing to prevent the Federal Ministry for the time being from having the power which we at present possessed.

MR. LEAKE: The clause limited the power of the Government to strengthen its ranks outside the House. If we were to follow Responsible Government, let us still give the Government power to obtain members from outside the House; because it was possible that circumstances might arise when the Government must look outside Parliament to appoint a person to discharge certain duties. It had never done any harm, and it was a safeguard. He was in favour, therefore, of the sub-section coming out.

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

Clause 64—agreed to.

Clause 65—Salaries of Ministers:

MR. GREGORY moved the insertion of the words "not to exceed" before "twelve thousand pounds." In the first year of the Federal Parliament it might not be necessary to spend so much as £12,000 on Ministerial salaries.

MR. JAMES asked who, in the meantime, was to fix the Ministerial salaries. [THE PREMIER: The Ministers.] He was of opinion that the Ministers could not, under the Constitution, fix their own salaries.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 66 to 68, inclusive—agreed to.

Clause 69—Immediate assumption of control of certain departments:

SIR JAMES LEE STEERE moved an amendment to insert the words "outside the limits of any State" after the word "telegraphs." He had a great deal of sympathy with those who did not want to give the control of the local post offices and telegraph lines to the Federal Government, because, if that were done, it would bear with special hardship on recently settled portions of the colony. But the Commonwealth ought to have control of all postal and telegraphic matters outside the States, such as the making of contracts for mail steamers and the consideration of proposals for the construction of new cable lines between England and

Australia. The amendment would give the local Government control over posts and telegraphs within the State, and was the same as that passed by the South Australian Parliament.

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

Clauses 70 to 78 inclusive—agreed to.

Clause 79—Trial by Jury:

MR. JAMES moved that the clause be struck out. He was a strong believer in trial by jury, but it was not right to commit the Commonwealth to this principle for all time, in view of the fact that many people thought the system required modification and improvement.

MR. LEAKE: Certain indictable offences were triable summarily before justices, and to pass the clause might be limiting the right of the State to interfere with its own criminal law. The clause had better go, unless there was some definition of the circumstances under which trial by jury should obtain.

THE ATTORNEY GENERAL (Hon. S. Burt): The clause referred not to local courts, but to the courts established under the authority of the Federal Constitution in the different States.

MR. LEAKE: Admitting that the clause did not apply to the local courts, he suggested there was a possibility of a case arising in which the criminal law of the State might be interfered with.

MR. PENNEFATHER: The clause was intended only to deal with offences against the Commonwealth.

MR. W. JAMES: To pass the clause would prevent the Commonwealth dealing with indictable offences in the same way as the State could deal with them. Under the clause the trial would have to be by jury.

MR. MORAN: The clause should be retained, especially as it had been inserted by the wisdom of legal minds.

THE ATTORNEY GENERAL: If offences were triable summarily, they ceased to be indictable offences. The fault of the Bill was that there was too much detail in it.

Amendment put and negatived.

Clause passed.

Clauses 80 to 84, inclusive—agreed to.

Clause 85—Transfer of Officers:

MR. ILLINGWORTH moved, as an amendment, that the words "or transferred to some other equal position in some other department in the service of the State" be inserted after the word "Commonwealth," in lines 6 and 7.

MR. JAMES: The amendment provided that unless an officer was transferred he would get his pension; that was to say if he was not taken over by the Commonwealth. But supposing the officer said he would not be transferred—how then?

MR. VOSPER: It might be left entirely in the hands of the State to deal with this matter, which was occupying the time of the House too much.

MR. JAMES: We should not run the risk, in establishing this Commonwealth, of making any officer lose his pension. Rather, we should protect the rights of our officers.

MR. DOHERTY: Why should we take so much trouble about this matter? No law in South Australia forced the Government to give their officers a pension. [Several MEMBERS: Yes.] It was a gift from the Government, and not compulsory.

MR. ILLINGWORTH: It was not compulsory in this colony, where there was no Civil Service Act; but in those colonies where there was a Civil Service Act it was compulsory. He did not think an officer should be placed in a position to say, "The Commonwealth Parliament does not want me, and I will therefore claim my pension." The State should have the right to retain the services of an officer if required.

THE ATTORNEY GENERAL (Hon. S. Burt) suggested that after the word "Commonwealth," in lines 6 and 7, the words "and unless he is appointed to some other office in the State" should be inserted.

MR. ILLINGWORTH accepted the suggested amendment, and asked leave to withdraw his amendment.

Amendment (Mr. Illingworth's) by leave withdrawn.

Amendment (moved by the Attorney General) put and passed.

THE ATTORNEY GENERAL moved, as a further amendment in line 14, to insert after the word "service" the words "and in calculating such pension or "retiring allowance, the proportion payable "by the State shall be calculated upon the "salary paid to the officer at the time of "his transfer to the Commonwealth."

Some years ago, when this colony took over the old Imperial officers, they received at that time a salary, say, of £500 a year from this Government. Their salaries were raised, perhaps considerably, immediately afterwards; and when they retired, we were called upon to pay a pension based on the increased amount of salary. We thought it was only right, in calculating the pensions, to pay them on the salaries which the officers held when they left our employment, leaving the other party to pay the pensions on the increased amount, otherwise it would have been unfair to us. The officers entering the service of the Commonwealth might get their salaries very much increased by the Commonwealth; and if this clause were carried in its present state, we should be saddled with pensions on the extra amount.

MR. ILLINGWORTH asked if provision was not already made in this clause to meet the views of the hon. gentleman.

THE PREMIER: An officer might be getting £300 a year when he left our employment, and he might afterwards receive £600 a year. Under the present clause he would be paid a pension based on the £600 a year. We were willing to pay him a pension based on the salary he was receiving when he left us.

THE ATTORNEY GENERAL: Take the case of an officer who was receiving £300 when transferred; if he served the Commonwealth for ten years more at £600 a year, when he retired they would call upon us to pay a pension based on £600 a year, which was the salary they had raised him to. We ought to pay him a pension based on the salary of £300 which we were paying him.

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

At 6·30 p.m. the CHAIRMAN left the chair.

At 7·30 p.m. the CHAIRMAN resumed the chair.

Clause 86—Transfer of land and buildings:

THE PREMIER said the only remark he had to make was in reference to the sub-section. In the first line after the word "thereof" it would be advisable to insert the words "at the discretion of the State." Some of the most prominent public buildings were used for the post offices in this colony, as in others: and it might be advisable that we should retain the property, rather than be compelled to hand it over to the Commonwealth when that body took over the particular service. In Perth, for instance, the General Post Office was the best public building we had; and we might have to hand it over to the Commonwealth at great inconvenience to this colony. We might let the Commonwealth have the use of the building for a few years, until the Commonwealth could build one suitable. The State should have something to say in the matter. Of course, if we handed over the buildings we would get paid for them, and if we did not hand them over we would not get the money for them.

MR. JAMES: The Commonwealth would have to take over all the public buildings used for general services, except the customs, and excise, and bounties.

THE PREMIER: The Commonwealth should not have the power to take over absolutely, but only with the consent of the State. The Commonwealth could not well take a portion of a building, as they would have to do here for instance, but would have to take the whole of it; and the Government here might have to provide premises somewhere else at great inconvenience.

MR. ILLINGWORTH: The Commonwealth might also reserve the right to reject.

THE PREMIER: We might well give them the power to reject.

MR. ILLINGWORTH: In the case of the General Post Office in Perth, it should be a matter of arrangement.

THE PREMIER: The object should be that the State should have the upper hand in deciding this question, and not be compelled to hand over buildings at great inconvenience.

SIR JAMES G. LEE STEERE suggested that after the word "used" the word "exclusively" should be inserted. That would meet the case of a portion of a building being used for the General Post Office, as in Perth. If the Government had certain buildings in which other duties or services were performed besides those which the Federal Government would take over and continue, the word

"exclusively" would provide for such a case. He therefore moved, as an amendment, that the word "exclusively" be inserted in line 2 after the word "used."

THE PREMIER: This amendment would meet his view, though he would prefer the clause should leave the matter to the discretion of the State.

THE ATTORNEY GENERAL (Hon. S. Burt): If a building was used by the Commonwealth jointly with the State, the State would charge some rent to be paid by the Commonwealth. It was pointed out in Sydney, in discussions on the Bill, that such a serious charge might be put on the Commonwealth for taking over very large buildings in various colonies, that the Commonwealth might not be able to provide the money, or would not have the money available unless it were raised by a large loan. It was suggested that the cost of the buildings taken over should be paid off gradually, and that in the meantime the Commonwealth should pay interest in the case of large sums.

MR. ILLINGWORTH: If the Federal Government took over the post offices in this colony, the Federal Government would also take over our national debt.

MR. W. JAMES said he did not like the word "exclusively." If the State did not want a building to be taken over, all it need do would be to occupy some rooms in it, and so defeat the right of the Commonwealth to take over the building.

Amendment (Sir James Lee-Steere's) put and passed, and the clause, as amended, agreed to.

Clause 87—Agreed to.

Clause 88—Uniform duties of customs:

MR. W. JAMES moved, as an amendment, to strike out the clause. He said the idea of having restrictions like this was something new. The limit of two years for imposing duties on customs was too short a time. This clause was struck out in New South Wales; and Sir Samuel Griffith (Queensland) had published some comments objecting to it.

MR. MORAN: The policy of this colony should be to keep the customs up two or three years, anyway; and it was desirable to strike this clause out, in order to allow a latitude in point of time.

MR. W. JAMES: Unless the section meant that the power must be exercised within two years, or the remedy would be gone, they had better knock the clause out.

THE PREMIER: Two years would be a reasonable time.

MR. LEAKE: The fixing of duties was one of the most difficult things the Federal Parliament would have to deal with, in view of the different policies in the several colonies. He was in favour of striking out the clause, and leaving the Federal Parliament to work out the matter as quickly as it could. This clause contained an unnecessary limit.

MR. ILLINGWORTH supported the striking out of the clause because the imposing of customs duties would take a vast amount of consideration; and, as the Federal Parliament would have a great deal to do in its first session, this huge question of a uniform tariff would have to be tackled in the second session. Better leave the time open, and assume that the Federal Parliament would bring in a uniform tariff as quickly as they could.

Motion (for striking out the clause) put and passed.

Clause 89—On establishment of uniform duties of customs and excise, trade within the Commonwealth to be free:

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment in the third line, that the words "throughout the Commonwealth" be struck out, and the words "between the States" be inserted in lieu thereof. It had been pointed out that the effect of this clause, making Australian commerce absolutely free throughout the Commonwealth, would be to debar the States from even dealing with such matters as the licensing of hawkers. That would be something serious; and therefore he suggested the insertion of the words "between the States." He had got this idea from reading the debates in the Parliament at Sydney, where this objection was pointed out.

MR. W. JAMES said the intention was to keep the channels of commerce free, whereas instead of saying that trade should be free within the Commonwealth, the proposal now was to say it should be free between State and State. A State might put a heavy tax on commercial travellers, and that would simply be an extension of the hawker's license. The object was that within our own State the commerce should be free, and that a State

should not put such duties on inter-colonial traffic as would prevent trade.

MR. MORAN: Supposing this were in operation to-morrow, there would not be a storekeeper on any goldfield who could live, because of the selling of goods by coloured traders. If he (Mr. Moran) imported merchandise from South Australia, would the Government of this colony impose a duty on goods when they arrived here? He thought not. The Attorney-General's point with reference to coloured hawkers was a grave one.

Amendment put and passed.

Question—That the clause, as amended, be agreed to:

MR. W. JAMES asked what the clause meant now?

MR. ILLINGWORTH moved, as a further amendment, to add at end of the clause the words: "Nothing in this Constitution shall be construed to prevent any "State from regulating the importation "of opium or alcohol under conditions which are applicable, as nearly "as possible, to the laws relating to opium "and alcohol within the State." This, he said, would give the States power, at any rate, to license public-houses. A similar amendment was moved by Mr. Deakin at the Convention after the Western Australian delegates had left, and it was lost by only two votes. The Tasmanian and South Australian Parliaments had passed a similar amendment, and their example would, doubtless, be followed by the Parliaments of other colonies.

MR. VOSPER supported the amendment, but suggested that it should be extended so as to include other noxious drugs such as morphia, to the excessive use of which many people were injuriously addicted.

Further amendment put and passed, and the clause, as amended, agreed to.

Clause 90—Accounts to be kept:

THE PREMIER (Right Hon. Sir J. Forrest): It ought to be provided that until uniform customs and excise duties had been imposed, and for five years afterwards, accounts should be kept. The clause as it stood provided that until the uniform duties of customs had been imposed, there should be shown in the books of the Treasury of the Commonwealth, in respect of each State, the revenues collected, and the expenditure in the collection, and the monthly balance, if any, in favour of the State, and finally the balance had to be paid to the State after deduction. There must come a time when the colony would have to throw in its lot with the people of Australasia, and if it was arranged that for five years an account should be kept, and that the colony got every penny it was entitled to in that time, we could then take our chance amongst the other States. [MR. ILLINGWORTH: And hold our own too.] He proposed an amendment providing that until uniform duties had been imposed, and for five years afterwards, accounts should be kept, and that the arrangement should also apply to excise duties, to which no reference was made in the clause.

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

Clause 91—Expenditure:

THE PREMIER (Right Hon. Sir J. Forrest) said the clause provided that during the first three years after the establishment of the Commonwealth, the total yearly expenditure, in the exercise of the original powers given by the Constitution, should not exceed £300,000, and that the total yearly expenditure in the performance of the services and exercise of the powers transferred by the States, should not exceed £1,250,000. The desire was to bind the Commonwealth down to some fixed sums in the first five years after the establishment of uniform duties; and he proposed to move an amendment to that effect. This would bring the clause into line with that just passed.

MR. ILLINGWORTH moved that the clause be struck out. The people of the colonies were handing over the protection of their lives and property to the Commonwealth, which could surely also be trusted to settle the question of expenditure. For two successive Parliaments the Government of Western Australia had spent £500,000 without any authority at all, and yet it was now proposed to give the Commonwealth no power to increase the expenditure.

THE PREMIER: We must have our customs revenue for local purposes and for the payment of interest on our public debt, and could not afford to give it all away to the Commonwealth.

MR. LEAKE supported the striking out of the clause. To take an extreme

case, suppose war was declared a month after the Bill was passed.

THE PREMIER: There were plenty of means of raising money, in all sorts of ways, to meet such a contingency.

MR. LEAKE: But £300,000 and £1,250,000 would not be sufficient to protect the country.

THE PREMIER: That money was from the States' contributions.

MR. LEAKE: The States did not give the money, but they said to the Commonwealth, "You shall not spend it."

MR. JAMES hoped the committee would strike out the clause, which was put in by the Premier of New South Wales as an indirect means of deferring the question of a tariff against the outside world. If the Federal Parliament were wise, they would have a protective tariff.

THE PREMIER: Very well, let the clause go.

Motion put and passed, and the clause struck out.

Clause 92—Payment to each State for five years after uniform tariffs:

THE PREMIER (Right Hon. Sir J. Forrest): The Legislative Council had struck out all the five sub-clauses, and left only the first part. The amendments of the Council meant that if Western Australia received £1,000,000 from customs the year before the uniform tariff came on, the tariff of the Federal Government would have to be so arranged against the outside world as to enable the Federal Government to still pay the State that amount per annum. In Victoria especially there was a desire that pressure should be brought on the Commonwealth Parliament to make them frame a good protective tariff against the outside world. It would be inconvenient to Western Australia, and to every other colony, if, for five years after the uniform tariff came into force, the money allocated were less than the amount of local revenue received the year before the tariff came into operation. The colonies should take care they were not landed in a difficulty by the establishment of a uniform tariff. But the clause was not now so unreasonable as it would have been had Clause 91 been retained, limiting the expenditure of the Federal Parliament. Had that clause stood, the Federal Parliament could have said, "How are we going to guarantee you, seeing that we may have a loss?" If the Federal Government were relieved of all obligation in regard to the amount they spent, they should be very willing to be liberal to the various colonies for the limited period of five years. With a view of following the lead of the Upper House, and testing the feeling of the committee, he moved that the clause be amended so as to read that "During the first "five years after uniform duties of cus- "toms have been imposed, the amount to "be paid to each State shall not be less "than the amount returned to each State "during the year last before the imposi- "tion of such duties."

Amendment put and passed.

THE PREMIER moved, as a further amendment, that all the sub-clauses be struck out.

Further amendment put and passed, and the clause, as amended, agreed to.

Clauses 93 to 97, inclusive—agreed to.

Clause 98—Taking over public debts of States:

THE PREMIER (Right Hon. Sir J. Forrest) said he regarded this as a very important clause, and he moved an amendment providing that the Federal Parliament should take over the public debts of the States "to the extent of £60 per head of the adult males residing in each State."

MR. ILLINGWORTH: There was Women's Suffrage in South Australia.

THE PREMIER said he wanted to get at the breadwinners, and these were the adult males.

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

Clauses 99 to 107, inclusive—agreed to.

Clause 108—State not to coin money:

MR. ILLINGWORTH asked how the provision would affect Western Australia.

THE PREMIER: The Mint would probably be taken over.

MR. ILLINGWORTH: That would relieve the colony of some responsibility.

Clause put and passed.

Clauses 109 to 113 inclusive—agreed to.

Clause 114—Admission of existing colonies to the Commonwealth:

THE PREMIER (Right Hon. Sir J. Forrest) moved an amendment to strike out the words, "The Parliament may from time to time admit," and to insert

in lieu thereof other words providing that any of the existing colonies, which had not adopted the constitution, might, on doing so, be admitted to the Commonwealth, and should thereupon become a State of the Commonwealth. The object of the amendment was to leave the clause as it stood in the 1891 Bill.

MR. ILLINGWORTH understood that the amendment would give any colony the right to come into the Commonwealth on adopting the constitution.

THE PREMIER said the hon. member was correct.

MR. MORAN suggested the substitution of the word "shall" for "may."

MR. JAMES said the clause had had the most careful consideration of Sir Samuel Griffith, and they should be careful before they altered a single word.

THE ATTORNEY GENERAL said the word "may" was followed by the words "upon adopting this constitution," and these words implied that, on adopting the constitution, the colony would be admitted to the Commonwealth.

Amendment (moved by the Premier) put and passed.

THE PREMIER moved, as a further amendment, to strike out the words "and may from time to time establish new States, and may upon such admission or establishment make and impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit."

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

Clauses 115 to 121, inclusive—agreed to.

Schedule—agreed to.

Preamble:

MR. JAMES moved, as an amendment, that the words, "Grateful to Almighty God for their freedom, and in order to secure and perpetuate his blessings," be inserted before the word "have" in line two. He did not want to discuss the question, but desired only to say he quite recognised that those who opposed him on this question were actuated by motives just as high minded, and just as reverent, as those which were supposed to actuate such members as approved of the amendment. It was a question which had come very prominently to the front since the Convention sat. It appeared to have been the only question in support of which a petition had been presented to the Convention. That petition had been signed by four or five thousand people, representing all sections and all creeds, asking that the existence of a Supreme Power might be recognised in the Constitution. Deputations had waited on all the Premiers of Australasia, and a great deal of attention and interest had been excited. The agitation had come from a portion of the community which was entitled to a large amount of respect. Men were not, as a rule, so careful of religious observances as the women were, and this matter had been taken up all over Australasia by the other sex, and he thought they should not give less attention to it on that account. If he thought that the insertion of these words in the preamble could be made a lever for future religious discord, he would not support it, but Section 109, which provided that a State could not make any law prohibiting the free exercise of any religion, was a sufficient guarantee against that. If they found a question exciting the interest this did, and if they found moreover that those who supported it were the only ones who brought their views before the Convention and before the people of Australasia, would it not be well to give effect to their wishes? If this question had not been raised, perhaps it would be better not to raise it now, but seeing that it had been brought forward so prominently, if we rejected it, would it not imply the negation of the existence of the Supreme Power? [SEVERAL MEMBERS: No, no.] It was a matter, of course, on which they could disagree. There was a great difference between refusing to bring up a question, and refusing to deal with it when the question had been brought up. It was not a laughing matter. He would be sorry to think that he had failed to recognise its gravity. He thought it ought to be stamped on the face of the constitution that, as they had enjoyed great liberties and great freedom, and as they were—he need not say a Christian people, because the recognition of Almighty God was not confined to Christians—but as they were, he hoped, a religious people, having enjoyed these rights, and as the overwhelming majority of the people believed

we enjoyed these liberties through the intervention of Providence, why should we be ashamed to acknowledge it?

MR. LEAKE: If these words were inserted, and assuming that only three colonies of the group joined the federation, the acknowledgment of the deity would come from those three colonies only. It would be an acknowledgment only by the colonies that openly joined the federation.

MR. MORAN: There was no necessity to insert the words of the amendment, inasmuch as the existence of the deity was legally acknowledged in such phrases as "Victoria, by the Grace of God," and "God save the Queen." An thing which tended to advertise religion was derogatory to it. Men would be found of the same religious belief who would differ altogether as to the advisability of inserting such an acknowledgment in a special Bill. He was one of those who thought it was needlessly going out of our way. Why should a recognition be inserted? It would not make anyone less a believer in God, if it were left out. He did not see the force of the argument that, because it was proposed now, we must adopt it or otherwise we would be accused of irreverence. He submitted that we might very well leave out the words of the amendment.

Mr. VOSPER: This agitation had been started by a very large section of churches, but not by all. One church, the Roman Catholic, had stood out from it altogether. He believed Cardinal Moran had mentioned something of the kind, but the church, as a body, had taken no part in the agitation. There was a very large section of the various Christian churches which did not take any part in it; but, even if he were absolutely sure that every church was taking part in it, he would not support it. He looked upon it as dangerous for a church, or for any combination of churches, to take part in political affairs. An attempt was made by the clerics in the colonies to interfere with legislation. If the colonies gave way on such a point as this, it would only be a precedent for requests of a similar nature. He regarded this as being only the beginning, and by no means the end. He thought we should put our foot down on it at the first, or expect to be frequently bothered with similar appeals. He did not believe that religious liberty or religious zeal were served by the differences between the sects. When the different sects made an attack on politics, the liberty of the subject would be in danger. There was no unanimity on the subject. All the arguments against it had been brought forward by various Christian sects. The secular press had little to say on the matter. Every hon. member had been deluged by papers from the Australasian Tract Society, which appeared to be just as religious as any other organisation. He would like to ask hon. members or the persons who advocated the inclusion of this acknowledgment, in the preamble, whether they or anybody else had any doubt of the existence of the Deity, because, if any doubt existed, this Parliament had no right to deal with the doubt, and no right to insert anything of a doubtful character in a definite legislative enactment. If there were no doubt about it, then there was no use in inserting such an acknowledgment. We might just as well say that water ran down hill, or that 2 and 2 made 4. What necessity was there for us to profane the name of God, to bring him in as witness to a purely secular contract? The objection taken by the member for East Coolgardie was a perfectly logical one. The acknowledgment of God was made in every legal document. Any legal document—take a writ—commenced with an invocation to the Deity, and he did not think the name of the Deity was particularly honoured by being found on a writ. The very last words on the oath of allegiance which hon. members had to take were "so help me God." Could the acknowledgment of the existence of the Deity go any further? If we introduced any acknowledgment of this kind into the preamble, we would be carrying it a great deal too far. He objected, and most strenuously, to any attempt on the part of religious bodies to further encroach on politics, as dangerous both for the church and State. It was not his business to concern himself with the dangers of the former, but only with those of the latter. If the amendment was carried, it would be setting a precedent which might be used by fanatics of every kind, and for that reason he would give it his most strenuous opposition.

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

Ayes	17
Noes	6
Majority for ...	11

AYES.	NOES.
Mr. Burt	Mr. Connor
Mr. Conolly	Mr. Gregory
Mr. Ewing	Mr. Kenny
Sir John Forrest	Mr. Morgans
Mr. A. Forrest	Mr. Vosper
Mr. Higham	Mr. Doherty (*Teller*).
Mr. Hubble	
Mr. James	
Mr. Lefroy	
Mr. Locke	
Mr. Onts	
Mr. Piesse	
Sir. J. G. Lee Steere	
Mr. Throssell	
Mr. Venn	
Mr. Wood	
Mr. Quinlan (*Teller*).	

Amendment passed, and the preamble, as amended, agreed to.

Title—agreed to.

Bill reported to the House.

RE-COMMITTAL.

Mr. Speaker having resumed the Chair,

THE PREMIER moved that the Bill be re-committed with respect to Clauses 52 and 93.

Question put and passed, and the Bill re-committed.

IN COMMITTEE.

Clause 52—Legislative powers of the Parliament:

THE PREMIER (Right Hon. Sir J. Forrest) moved, as an amendment, that the following be inserted, to stand as Sub-clause 5:—"Postal and telegraphic, telephonic, and other like services outside the limits of any State."

Put and passed, and the clause as amended agreed to.

Clause 93—Distribution of surplus:

SIR JAS. G. LEE STEERE moved, as an amendment, to strike out the words "numbers of their people as shown by the latest statistics of the Commonwealth," at the end of the clause, and to insert in lieu thereof the following words: "Amount of revenue contributed to the Commonwealth." He said the clause as it stood would work a great hardship, especially to this colony. The whole financial question hinged on this clause, and almost every financial authority who had considered the Bill and published his opinion had awakened to the consequence that this would be most unfair to some of the colonies, and that some would gain to a large degree, while others would lose considerably. Mr. McMillan (Sydney), who was the chairman of the financial committee in the Adelaide Convention and brought up this clause, stated in the discussion that the true way of returning the surplus would be in proportion to the amount of dutiable goods consumed in each colony. The Government Statistician of Tasmania (Mr. R. M. Johnston) had made a report on the matter, and his conclusion was that if the surplus was to be returned in proportion to population, Western Australia would lose £613,000, and Tasmania would lose £99,000. These were very alarming figures for the people in this colony to consider. We should try to get the surplus returned in proportion to our revenue, because we should be contributing to the revenue six times as much as other colonies in proportion to our population. Having considered this matter, he had come to the conclusion that the only fair way was that the surplus should be returned to this colony in proportion to the amount of revenue we would contribute as a colony. We should be giving up the whole of our Customs duties to be paid over to the Commonwealth Treasury, and after the expenses of the Commonwealth in carrying on the services had been deducted, the balance, if this amendment were approved, would be returned to this colony in proportion to the amount it had contributed.

THE PREMIER: In the case of some articles which would be imported and consumed in this colony, the duty on these articles might have been paid in another colony.

SIR JAMES G. LEE STEERE: All the financial authorities who considered this matter had come to the conclusion that Western Australia would lose at least half a million of money every year, if the surplus was returned in proportion to population; therefore, considering the immense amount of revenue this colony raised in proportion to its population, that must be the effect of the principle. Some reliance should be placed on the calculations of these financial authorities, all having come to the same conclusion. The Government Actuary in this colony said the same. It was probable that none of the financial clauses now under con-

sideration would be finally adopted at the Sydney Convention, but the suggestions of this Parliament should be considered. His amendment had been put on the notice paper, and he moved it as one deserving of careful consideration.

MR. QUINLAN (Toodyay) supported the amendment. The Government Actuary in this colony had estimated that, according to the method proposed in the Bill, which would mean charging distribution as per head of population, our amount would be £634,303, whereas, by the proposal of the hon. the Speaker it would be charging the population according to the net revenue contributed which would mean a loss to the colony of £15,518. He was glad to learn that the Premier was in accord with the amendment.

MR. MORGANS: From a sound financial point of view, the fair basis would be to distribute in proportion to the revenue of the colony; therefore he strongly supported the amendment.

Amendment put and passed.

A consequential amendment (striking out from the last line the words after "people") was made, and the clause as amended was agreed to.

Bill reported to the House, with further amendments, and report adopted.

PRESENTING AMENDMENTS TO THE CONVENTION.

THE ATTORNEY GENERAL moved that the Speaker should hand the amendments made in the Bill to the Premier, for the purpose of placing them before the Federal Convention at the next meeting.

THE SPEAKER said the amendments would have to be signed by the Chairman of Committees, and could then be handed to the Premier.

Question put and passed.

VACANCY IN FEDERAL CONVENTION BILL.

STANDING ORDERS SUSPENSION.

During the preceding discussion, a Bill was interposed as a matter of urgency, as follows:—

THE PREMIER (Right Hon. Sir J. Forrest): I want to make a statement, and to take the sense of the House, as to whether a short Bill in regard to the election of a delegate to the Federal Convention at Sydney should be proceeded with. Time is very pressing, or I would not take this course of interfering with the consideration of the Commonwealth Bill. The reason I take this unusual course is that the delegates to the Convention have to leave Perth to-morrow afternoon, and I have just received this evening—and I was expecting it—the resignation of one of the delegates (Mr. Loton). If we are to be represented at this Convention, we should go in our full numbers. The reason why our old friend Mr. Loton has resigned is that he is in the hands of his medical adviser, and has to undergo some surgical operation which altogether prevents his carrying out the duties which he so much desires to fulfil. I am sure we all sympathise with him in the trouble which has, somewhat unexpectedly, come upon him. As hon. members know, there is no way in which we can now elect a member to the Convention. The Enabling Act of last year provides that 15 days' notice must be given before nomination. Representations were made to me last evening and this morning by hon. members that some means should be devised for enabling the colony to have ten representatives at the Convention. To that end I have had a Bill prepared, which recites that as Mr. Loton has resigned his seat, it is desirable forthwith to fill the vacancy. The Bill also provides that, notwithstanding anything contained in the principal Act, the vacancy may be filled up in the manner provided. That manner is that the returning officer shall, in such way as he may think fit, invite the members of the Council and of the Assembly to meet for the purpose of the election in the Assembly room at noon to-morrow, the 26th, and shall himself then and there attend, and, till fifteen minutes after noon, receive nominations for the vacant seat. I have here a bundle of letters addressed to every member of Parliament informing them of the fact. If members are desirous and willing to go on with this Bill, I propose to advertise in to-morrow morning's newspapers that nominations will be received as provided by the Bill. Under the Bill the members of the Council and of the Assembly may, after 15 minutes past 12, proceed to elect in the manner provided by the 17th section of the principal Act, a person to fill the vacant seat,

who thereupon shall become a representative of Western Australia at the Convention. The returning officer is to certify to the Governor the name of the person so elected, and notice of his election must be put in the *Government Gazette*, such publication to be conclusive evidence of the election. It is proposed, to-morrow afternoon, to publish a *Gazette* notice with the names of the three members who will be elected to-morrow, and also the name of the additional member who will be elected if this Bill becomes law. It will be for members to say whether they are willing that the course I have suggested shall be adopted, and whether they will pass the Bill through all its stages this evening, or whether we shall go to the Convention with nine representatives. I prefer that there should be ten, in accordance with the intention of the Act. I recognise that exceptional legislation is undesirable, if it can be avoided; but the Bill has been suggested to me by hon. members who wished that the number of delegates should be complete. If they are unanimous in their opinion that this Bill ought to be passed, that can be done in a few minutes. If, on the other hand, there is any opposition, it would not be desirable to deal with the measure, and nine delegates would have to go to the Convention instead of ten. It is unfortunate that Mr. Loton should have had this trouble come upon him, as it has done, almost unexpectedly. Only the day before yesterday he informed me he thought he would be able to go; but yesterday his medical adviser told him that would be impossible, and that he would have to submit himself to a surgical operation. I move that the Standing Orders be suspended, with a view of passing this Bill through all its stages this evening.

Question put and passed.

On the motion of the Premier, the Bill was read a first time.

The second reading was agreed to without debate.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—Returning Officer to invite attendance of members of both Houses, and to receive nominations:

MR. ILLINGWORTH: The election for the first batch of candidates would close at noon on the following day, and the rejected candidate would not know the result in time to be re-nominated for the extraordinary vacancy, the nominations for which, according to the clause, closed at fifteen minutes past noon. He moved that the nominations close at fifty minutes past twelve.

THE PREMIER: The same nomination paper might be used again by the candidate rejected at the first election. The point raised by the hon. member for Central Murchison had been overlooked in the preparation and printing of the Bill.

THE ATTORNEY GENERAL (Hon. S. Burt): Fresh nomination papers could easily be obtained before twelve o'clock.

MR. ILLINGWORTH: The proceedings in the election of delegates had been a "screaming farce" from begining to end. Four gentlemen nominated for three seats were each expected to nominate again on the chance of being rejected, when it would not take a clerk ten minutes to make the necessary alteration in fifty Bills.

THE ATTORNEY GENERAL: It often happened in England that a candidate for Parliament was nominated for two or three constituencies, and in the event of rejection in one, he went for the other vacancy.

THE PREMIER: In order to meet the hon. member's wish, the Speaker had promised to initial the proposed amendment.

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

Clauses 4 and 5—agreed to.

Preamble and title—agreed to.

Bill reported with an amendment, and report adopted.

Bill read a third time, and transmitted to the Legislative Council.

HAINAULT GOLD MINE, LIMITED, BILL.

Received from the Legislative Council.

THE SPEAKER said a question had been raised in the Legislative Council as to whether this was a private Bill, requiring the usual procedure as to private measures, or was a public Bill; and it was finally ruled that this should be treated as what was known as a hybrid Bill, and be introduced on the condition that it must be

referred to a Select Committee. That Committee sat and presented a report to the Council, which report now accompanied this Bill.

Report of Select Committee read.

FIRST READING.

THE ATTORNEY GENERAL (Hon. S. Burt) moved that the Bill be now read a first time.

MR. MORAN (East Coolgardie) said he would oppose this Bill at every stage. He had put a question to the Government two or three days ago, in this House, and the information given in reply was such that any representative——.

THE SPEAKER said the hon. member was out of order, as no debate could take place on the first reading of a Bill.

Question put and passed.

Bill read a first time.

MOTION—STANDING ORDERS SUSPENSION.

THE PREMIER (Right Hon. Sir J. Forrest) moved that the Standing Orders be suspended, to enable the Bill to be passed through all stages at one sitting. He hoped that, out of respect for the convenience of the House in exceptional circumstances, hon. members would not oppose this Bill until they had first had an opportunity of hearing the reasons which induced the Government to ask the House to assent to the Bill. Before opposing a measure, they should want to know all about the reasons for bringing it forward; and the Attorney General was prepared, and waiting, to give those reasons. If the explanation, when given, was not found to be satisfactory, hon. members would have a right to oppose the Bill to the utmost of their ability. Until two or three days ago, he (the Premier) did not know of this case; but, on learning the facts, he felt that the credit and honour of the colony were at stake, and that it was their duty to do all in their power to put the matter right.

MR. ILLINGWORTH (Central Murchison): The patience of the House, in this short session, had been stretched to its utmost limit, and every assistance had been given to the Government in passing their measures. But now they had come suddenly to a most important Bill, which must be carefully and seriously debated. It would be impossible to do this in the circumstances. What was the specific reason for this Bill, if any?

THE PREMIER: The Government could not get past the second reading to-night, unless members consented to suspend the Standing Orders.

MR. ILLINGWORTH: The Government had a majority behind them, by which they could force the situation if desired; and the only protection for a minority was to object to the Standing Orders being suspended. Fortunately, a minority could do that. The purport of this Bill was to interfere with the ordinary course of justice in the Supreme Court.

THE PREMIER: The Government were not interested in this thing themselves, like some other people, perhaps.

MR. ILLINGWORTH said he had no such thought, unless a guilty conscience suggested it.

THE PREMIER: The Government desired to get an opportunity for explaining the reasons for having brought in the Bill.

MR. ILLINGWORTH: The Government should give substantial reasons for suspending the Standing Orders.

MR. MORAN said he would give a few reasons why they should not be suspended. It was significant that he had asked for certain information from the Mines Department two or three days ago, and he had asked the question in the House upon representations made to him by his constituents.

THE PREMIER: How many of them?

MR. MORAN: More or less, they happened to be his constituents. He had given notice of motion for a certain day, and the Government ignored the matter by putting his motion on the notice paper behind the Government business, thereby shutting out his motion, which was for the production of all the documents and correspondence relating to the Hainault lease. In replying to the question he had asked in the House, the Premier said the rent was paid at the Coolgardie office on the 30th March, 1896, that the rent was paid by cheque on this lease with 18 others, and that it was received by one of the registrars, but the particular registrar could not be ascertained without inquiry.

THE PREMIER: The Government knew they had received the money.

MR. MORAN: But the Government could not state the name of the registrar who gave a receipt for the money. He

(Mr. Moran) had also given notice of a motion for production of a copy of the new lease that was issued to the Hainault Company.

THE PREMIER: The motion for the production of that return had not been carried in this House.

MR. MORAN: The Government did not give him a chance of moving it. The Select Committee which the Legislative Council appointed to inquire into this Bill had taken the evidence only of the persons interested in promoting the Bill, and not the evidence of those opposed to it. That committee comprised the Hon. C. A. Piesse, a large mineowner and capitalist; the Minister of Mines, who should not have sat on it, as his department was concerned in the Bill; the Hon. H. J. Saunders, who was not a working miner; the Hon. A. H. Henning, who also was not a working miner; and the Hon. G. Randell, whose name was the only one he did not object to. That committee refused to receive the evidence of the men who had taken out a fresh lease of the Hainault ground after the company had forfeited it. He was absolutely unbiassed in this matter. The Government had declared in the *Gazette* that a certain lease at Kalgoorlie was forfeited; and section 48 of the Mining Act provided that notice of forfeiture in the Government *Gazette* should be conclusive evidence of forfeiture. That being the law, certain working men applied for and obtained a fresh lease of that ground, and proceeded to work it. When the Hainault Company disputed the forfeiture, the Government tried to do an illegal thing by endeavouring to cancel their own cancellation, but finding they could not do it, they now brought this Bill before Parliament. If the Government had done a wrong action in connection with this lease, the Supreme Court was the proper tribunal for righting that wrong. The working men who took up the ground after forfeiture of the company's lease were not acting as jumpers, but were doing what the law allowed them to do under their miner's right, which was the highest title a man could have on a goldfield.

THE PREMIER: I prefer a certificate of title, myself.

MR. MORAN: The four men who picked out the forfeited ground were then in lawful possession, and even if they had been the veriest scoundrels, they had got lawful possession of that ground, and could not be legally put off without compensation. Were mining representatives in this House going to allow the Government to step in and override a miner's right? Were members in this House going to be dictated to by another Chamber, which did not represent the people in the sense that this House did? If the Government were not afraid of an investigation in the Supreme Court, they should allow the Hainault Company to seek that remedy. Not an ounce of payable stone had been found up to the time the lease was forfeited, and he was not sure whether the owners did not have it in their minds at that time to abandon the mine altogether. When the shares went down, the public were taken in and fleeced.

THE ATTORNEY GENERAL said there was no occasion to impart the slightest heat into the discussion. It was a question which could be discussed very quietly, and with justice to all parties. The Government, in asking the House to suspend the Standing Orders for the purpose of passing this Bill, were acting in no interest except that of common justice to those whom the Government had unwittingly wronged.

MR. ILLINGWORTH: Could they not wait until next Parliament?

THE ATTORNEY GENERAL: If the Government waited until next Parliament, the Bill would not have the effect desired, because actions were now pending in the Supreme Court. He did not know most of the details, because he had nothing to do with the Mines Department. He understood, however, that last year it was considered by the Mines Department that the rent for this Hainault lease had not been paid, and in consequence, after the usual stages had been gone through, the lease was, in conjunction with other leases in the same position, forfeited, and the forfeiture was published in the *Gazette*. On that being done, this property, under the Goldfields Act, became absolutely invested in the Crown. It was subsequently learnt that the rent of the lease had been paid all the time. [MR. MORAN: No.] The hon. member for East Coolgardie questioned that, but there lay the point to be established in the case. [A MEMBER: Was the

mine worked?] He understood it was being worked, and no suggestion had been made to the contrary.

MR. MORAN: No, it was not being worked.

THE ATTORNEY GENERAL: There was no complaint as to the men not being kept working on the lease. [MR. ILLINGWORTH: It was abandoned.] He understood the mine was being worked.

MR. MORAN: The manager had left and gone away.

THE ATTORNEY GENERAL: No suggestion to that effect appeared in the papers on the case, nor in the evidence given by the men who pegged out the claim. The only suggestion made at the hearing of the case at Kalgoorlie was simply that the men had pegged out the claim, and asserted they had a legal right to do so, saying they were here lawfully under the regulations, and did not care whether the Government had made a mistake or not. Was it to be supposed they pegged out the machinery, the men, and everything else with the ground?

MR. VOSPER: Why were they not ordered off the ground, if that was the case?

THE ATTORNEY GENERAL: The men were ordered off the ground, he believed.

MR. ILLINGWORTH: Was it a fact that the company were not in possession, and not on the ground at the time?

THE ATTORNEY GENERAL: That was not a fact, so far as he knew, but he did not wish to speak positively because he had only the papers to guide him. The men themselves in court never suggested anything of the sort, but simply took up the position that the land had been declared forfeited, and that, having pegged it out, they had a right to have a lease granted to them. It turned out, as I have said, that the rent had been paid by the company all the time. It had been paid in conjunction with other rents, and the number of the Hainault lease had in some way become jumbled with the number of another lease at Coolgardie. The Hainault lease was returned as unpaid, and was in due time forfeited on that ground. So far as the Government could see, the Hainault Company had simply, through no fault of their own, been deprived of their property.

MR. ILLINGWORTH: Did the Mines Department give notice before they forfeited the lease for rent?

THE ATTORNEY GENERAL: Notice was not given at that time, he believed, but notice was subsequently given. The department did not immediately forfeit the lease, but waited some months. The company had done absolutely nothing to deserve the treatment they received, and they had been deprived of their property through an error of the Government, who were bound to reimburse the shareholders to the value of the lease, unless Parliament stepped in with this Bill. What claim to the mine had the men who pegged it out? They knew of the cancellation, but they also knew the cancellation had itself been cancelled by the Government. He did not wish to argue the question unnecessarily as to whether the Government had a right, having declared the mine forfeited, to cancel that notification. That was what the Government did, by way of doing everything they could to repair their error.

MR. MORAN: The Government could not cancel a cancellation.

THE ATTORNEY GENERAL: Never mind whether the Government could do that or not. The interjection showed on what technicalities the member for East Coolgardie was relying. Could it be shown that justice was on the side of the men who pegged out the claim?

MR. MORAN: I will show you the justice.

THE ATTORNEY GENERAL: The Government only desired to do justice.

MR. ILLINGWORTH: Had the company not a remedy in the Supreme Court?

THE ATTORNEY GENERAL: The Supreme Court could do nothing but look at the bare legal aspect of the matter and could not take into consideration the question as to whether an error had been made. The Select Committee thought that the men had been put up by a lawyer to peg out the lease, and the lawyer possibly saw an opening to get possession. If that were so, what rights had these men which the House should now be called on to secure to them? If the House thought some compensation was due to the men who pegged the claim out, under the circumstances, let Parliament give them compensation.

MR. MORAN: Why did the Government not offer the men compensation before they brought in this Bill?

THE ATTORNEY GENERAL: The matter of compensation did not come before him; and he was not dealing with that aspect of the case.

MR. MORAN: It was nonsense to say the Government could cancel the forfeiture.

THE ATTORNEY GENERAL: The cancellation was gazetted, and what the legal effect was did not matter. [MR. MORAN: Oh, didn't it!] The company were in full possession of the mine, and it was because of an error of the Government that these men now claimed the full benefit of legal possession. The Government thought it required an Act of Parliament to reinstate the company in their property. If an action were brought by the company against the Government, the mistake of the latter would have to be admitted at once, and there would be no use defending the cause. Having regard to the effect on the London market, to which we had to look for capital to work the mines, the Government would not dare, for a moment, to refuse to offer compensation to the company or refuse to reinstate them. Otherwise, what sort of title would the London capitalists think we had in this country, when they found that the Hainault Company, through no fault of their own, had been deprived under the Western Australian law of their property. The position was bad enough now, so far as the matter was known. The details of course would not be known in London, but the main point would stand out that, under our Goldfields Act and regulations, a company could be deprived of their property owing to a mere mistake on the part of the Government or its officials. That was a dreadful state of things which, if permitted, would keep any capitalists from investing money in Western Australian mines.

MR. ILLINGWORTH: The same thing had occurred under the Land Titles Act.

THE ATTORNEY GENERAL: For such cases as that referred to by the member for Central Murchison, there was a fund out of which people could be compensated. What justice would there be in giving this property to the men who had pegged it out with full notice of the mistake that had been made. If they had innocently come along and pegged out the lease, thinking it abandoned, that might have been a different matter. He did not say the Government would not be prepared to listen to hon. members who could show good reasons for inducing the House to suggest compensation to these men for any real, honest rights they might have. That was a matter which could be debated. The desire of the Government now was to reinstate the company, and the effect of passing this Bill would be to stay several actions which were pending against the company, and to pay the costs of all parties as between solicitor and client. He did not know the value of this property, but he had no doubt it was a good figure.

MR. VOSPER said he wished to raise a point which had been raised elsewhere, as to whether or not this was not really a private or hybrid Bill, which ought to go before a select committee. He was not raising the point with a view to hindering the Bill going through, but it was desirable, before coming to a decision, that the true facts of the case should be known. It had been asserted that the select committee appointed by the other Chamber on this Bill had actually burked the inquiry. Without attempting for one moment to endorse the statement, he said that if there was the smallest suspicion of the inquiry having been burked, that suspicion should not be permitted to lie on either House, and it would be desirable, for the honour of Parliament and the credit of the Government, that some independent investigation should take place.

THE SPEAKER: It was not necessary that the Bill should be referred to a select committee, although Parliament had power to take that course at the proper time, after the second reading. The fact of the Bill having already been inquired into by a select committee of the Legislative Council would do away with the necessity for a select committee of the Legislative Assembly, although any public Bill could be referred to a select committee at the proper time.

MR. EWING said that, after listening to the explanation of the Attorney General, there could not be much doubt that the title of the company to the lease in question should be confirmed.

The object of the Bill was to see justice done between the parties; but it was a piece of hasty legislation to suspend the Standing Orders for allowing the measure to go through all stages at one sitting. The Bill was of the greatest importance, because it took away that which the law said belonged to certain people, who were bringing actions in the Supreme Court in support of their title. It was admitted, in the documents before the House, that these people were right and the Hainault Company were wrong. It would be absolutely wrong for the House to hurriedly pass a Bill in which there was no machinery for ascertaining what the rights of the people were. He would be glad to support the Government, if an assurance were given that a clause would be inserted in the Bill to the effect that a committee would be appointed to ascertain the rights of all the parties in the business. It would be wrong to deprive the people in possession of their rights without giving them compensation. He did not suggest that a lump sum should be given or any sum to which they were not entitled, but the House should have some assurance from the Government in the direction he had indicated.

MR. LEAKE: The House was asked to take a most unusual course in suspending the Standing Orders. If he understood the position aright, Parliament should be regarded as a court of the last resort, after all remedies known to the law of the land had been exhausted. There was pending in the Supreme Court an action to try certain points, and the House was now asked to interfere with the course of justice, without being furnished with adequate reason for such an unusual and exceptional course. The House did not know what the claims of the parties were. There was no special report from members of their own body, and no distinct statement had been made that the parties had no other remedy than that which they asked Parliament to give them. He had looked only cursorily at Section 48 of the Goldfields Act, but so far as he could apply his knowledge he threw a doubt on the suggestion that the lease was properly forfeited. That was the very question which was to be determined by a judge of the Supreme Court. As a matter of fact, all the arguments had been heard, and the judge, at this very moment, was considering his judgment. The Attorney General relied on certain words in the section which said that when a certain announcement had been made in the *Government Gazette* a lease was void, cancelled, or forfeited. Speaking as a lawyer, that was the only section which must be considered, and the question first of all to be determined was whether or not the Government had a right to declare the lease forfeited. If there was a law on the statute book which authorised the Government, on its own motion, to cancel a lease, then it was time, not that special statutes should be introduced to remedy the evil, but that the law itself should be amended or repealed. If the arguments that the House had heard went for anything, they went to establish the proposition that there was something wrong with the administration of the Mines Department, and that the Minister of Mines appeared to be armed with powers with which he ought not to be trusted. The House was being asked to use its powers in a most dangerous direction. Members were asked to interfere with the administration of justice. If that were done, Parliament would be at the mercy of the Mines Department, and not the department as it was controlled to-day, but the department for all time. Hon. members should pause before they allowed such an encroachment as this upon their privileges or their powers. If the judges of the Supreme Court considered that an injustice had been done, and that the lease was forfeited when it ought not to have been forfeited, that would be another question. Until that determination had been come to, he for one could not support the Bill.

MR. MORGANS: Having listened with interest to the remarks of the member for Albany on the legal aspect of the question, he quite concurred in the feeling that, in a case of this sort, a very dangerous precedent might be established. The forfeiture of this lease arose under very peculiar circumstances. At the time it was forfeited the mine was supposed to be good. That did not alter the legal aspect of the question in any way, but it so happened that to-day the mine was worth £100,000. The position of the men who pegged out

the claim under the circumstances was perfectly legal, but the Government had already declared that the lease was not forfeited, and there was evidence that the men were aware of this fact at the time they pegged out. [MR. ILLINGWORTH: That is a question.] He did not say that fact invalidated the claim of the men in any way. The original owners of the lease were the real owners, and it would be a gross and great injustice if the lease were taken from them. A mistake was made in the Mines Department, and the men who pegged out the lease afterwards were not responsible for that mistake, nor could it be said that the original owners were in any way responsible. The only parties responsible were the Government, who made the mistake, and if the Government could see their way clear to give some reasonable compensation to those men who pegged out the lease, justice would be done, and nothing more need be said.

THE PREMIER: The Government would be quite willing to pay all the costs in the case, and also to make a reasonable compensation to the men, whom there was no desire to treat unreasonably. If hon. members would accept that assurance, the whole matter could be considered at an end, and the Bill could pass.

MR. WILSON: Why should the Government be called on to pay compensation to men who, according to the Attorney General, were not entitled to it?

THE ATTORNEY GENERAL: They had a legal position.

MR. WILSON: The only evidence as to that was a mere statement, the truth of which Parliament was not entitled to take for granted. The question did not hinge on the value of the property: it did not matter whether the mine was worth £100,000 or 100,000 pence. The question was one of justice between man and man, and as the case was now before the Supreme Court, why should there be this hurry? The Court should be allowed to decide as to whether the lease, in the first place, ought to have been forfeited, and then whether these men had a right to compensation. Then would be time enough for Parliament to step in and pass an Act, either to reinstate the holders of the lease or to compensate the men who were now, according to the Government, legally in possession.

MR. MORAN: There being a disposition on the part of the mining members present to accept the offer made by the Government—[MR. SIMPSON: Pardon me]—he did not wish to deprive hon. members ——

THE SPEAKER: The hon. member had already spoken.

MR. SIMPSON: Parliament was entering on a very grave course, and in his parliamentary life he had known no parallel case. The proceedings in connection with the Commonwealth Bill were putting Parliament in a ridiculous aspect before the people of the country; and now, at an hour when the House usually adjourned, there was a proposal for another suspension of the Standing Orders. The allegation had been made that this Bill was rushed through the Legislative Council, and that evidence had been shut out from the select committee. [MR. MORAN: Quite true.] He presumed that, when the cancellation of the lease was cancelled, the adviser of the Crown was consulted. For any wrong, the Supreme Court was the place to seek a remedy. It was a dangerous principle to establish, to induce people to come to Parliament before the verdict of the Supreme Court had been delivered. He could not urge too earnestly upon the House to consider the great trespass now being made on what was recognised as a safe, orderly, and just course of proceeding, namely an appeal to the Supreme Court. If justice were not done in that Court, then people could come to Parliament. He would be the last man to cause people to lose their property through a mere clerical error. Security of tenure must be given; but, so far as he could see from the Bill, there were other men who had good ground for compensation. He was content to say that if these men had a legal ground, they had a just ground. It was suggested that these men were in possession of certain information, and resorted to what was called sharp practice; but hon. members were not in possession of any evidence to satisfy them of that. The only evidence that Parliament had was that these men applied for land which was open to application. Once the Standing Orders were suspended, the Government could carry any Bill they liked through the House, even if the effect of that Bill would be to abolish the liberty of every man on the goldfields.

Question (that the Standing Orders be suspended) put, and division taken with the following result:—

Ayes	19
Noes	10
Majority for ...	9

AYES.	NOES.
Mr. Burt	Mr. Ewing
Mr. Conolly	Mr. Gregory
Sir John Forrest	Mr. Illingworth
Mr. A. Forrest	Mr. Kingsmill
Mr. George	Mr. Moran
Mr. Harper	Mr. Oldham
Mr. Hubble	Mr. Simpson
Mr. Kenny	Mr. Vosper
Mr. Lefroy	Mr. Wilson
Mr. Locke	Mr. Leake (*Teller*).
Mr. Monger	
Mr. Morgans	
Mr. Oats	
Mr. Phillips	
Mr. Piesse	
Mr. Quinlan	
Mr. Throssell	
Mr. Wood	
Mr. Venn (*Teller*).	

THE SPEAKER: There is not an absolute majority of members of the House (23) in favour of the Standing Orders being suspended; therefore they cannot be suspended, notwithstanding that a vote has been taken, for there must be an absolute majority present and in favour of the motion.

Motion therefore negatived.

On the motion of the Premier, the second reading of the Bill was made an order for next day.

ADJOURNMENT.

Resolved, on the motion of the Premier, that the House at its rising should adjourn until 11 o'clock next forenoon.

The House adjourned accordingly, at 11·45 p.m., until the next forenoon.

Legislative Council,

Thursday, 26th August, 1897.

Question: Fremantle Gaol and Classification of Prisoners — Question: Petitions of Right (3)—Question: Perth Water Supply and Additional Reservoir—Companies Act, 1893, Amendment Bill; discharge of order — Criminal Appeal Bill; discharge of order—Petitions of Right: Question of Procedure—Message: Assent to Bills; Prorogation.

THE PRESIDENT (Hon. Sir G. Shenton) took the Chair at 11 o'clock, a.m.

PRAYERS.

QUESTION — FREMANTLE GAOL AND CLASSIFICATION OF PRISONERS.

HON. H. BRIGGS (for the Hon. R. S. Haynes), in accordance with notice, asked: 1. Is there any classification of prisoners confined in the Fremantle Gaol? 2. If so, in what does it exist? 3. If not, has the Government any intention of introducing classification, so that long-sentence prisoners shall not have an opportunity of meeting prisoners serving short sentences?

THE MINISTER OF MINES (Hon. E. H. Wittenoom) replied that the prisoners in the gaol were being classified as far as the accommodation at the establishment would permit. Prisoners under remand, debtors, female prisoners, and boys under the age of 18 years were separated from the other prisoners.

QUESTION—PETITIONS OF RIGHT (3).

HON. H. BRIGGS (for the Hon. R. S. Haynes), in accordance with notice, asked the Minister of Mines if he will lay on the table of the House all papers to date in reference to the petitions of right in the cases of (1) the West Australian Land Company; (2) Mr. W. Wilkinson; (3) Mr. W. Last.

THE MINISTER OF MINES (Hon. E. H. Wittenoom) replied: I have not the information yet, but it is being compiled, and most probably will be here before the prorogation, in which case I will be glad to make it public.

QUESTION—PERTH WATER SUPPLY AND ADDITIONAL RESERVOIR.

HON. G. RANDELL, in accordance with notice, asked the Minister of Mines,