

## Legislative Council,

Thursday, 13th November, 1902.

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

## PRAYERS.

## QUESTION—RAILWAY ENGINES AND SPARK ARRESTERS.

HON. R. G. BURGESS asked the Minister for Lands: What spark arrester it is intended to use on the locomotives burning Collie coal.

THE MINISTER FOR LANDS replied: The Railway Department is now using the Standard spark arrester, which at present is the only one out of the region of speculation and trial; the result is an improvement on the open chimney, but experiments are still going on. The result of the experience all over the world, so far, is that a fairly successful spark arrester has yet to be found.

ROADS ACT AMENDMENT BILL.  
IN COMMITTEE.

Resumed from the 6th November.

Clauses 111 to 115, inclusive—agreed to.

Clause 116—Method of entering into contracts:

HON. R. G. BURGESS: All contracts should be in writing.

Clause passed.

Clause 117—By-laws:

HON. T. F. O. BRIMAGE moved that the following be added to Subclause 5: "payable to the board under this or any other Act in force for the time being." At present roads boards issued dog licenses, and in some districts wheel licenses, carriage licenses, and cycle licenses. The boards throughout the State should have the power to collect fees and pay them into their treasury.

Amendment negatived.

HON. B. C. O'BRIEN moved that Subclause 17 be struck out, and the following inserted in lieu:—

Imposing a license fee of 10s. per annum on every camel-driver, and a registration fee of one pound per annum for every cow or gelded

camel, or bull camel under the age of three years, plying for hire, if used for packing, and of 10s. per annum for every such camel used for draught, and of five pounds per annum for every bull camel over the age of three years. But no fees shall be payable in respect of camels used by prospectors for prospecting purposes.

The amendment would provide a uniform rate in the various districts throughout the State. If the clause were left as it stood, one district might charge a lower fee than another, and people would register in the district where the fee was small, thereby depriving another district of its legitimate revenue.

THE MINISTER FOR LANDS: There might be a good deal in the contention of the hon. member, but the amendment would take certain power away from the local bodies, and that was not desirable.

HON. J. E. RICHARDSON: Some of the roads boards in the North might desire to charge a higher fee for a camel license than was charged in other districts. The subclause should remain as printed.

HON. J. M. DREW: The fee should be stated in the Bill, for if one board fixed a nominal fee, all the camels in the surrounding districts might be taken to that board's district to be registered, the owners not being compelled to register in more than one district.

THE MINISTER FOR LANDS: The districts being large, that was improbable. The amendment was against the spirit of the clause, which, by rendering it optional to make a by-law, enabled the board to dispense with fees; yet the amendment prescribed definite fees.

HON. B. C. O'BRIEN: The fees of 10s. per annum for a driver, £1 for an ordinary draught camel, and £5 for a bull camel were not too high, even if the maximum were charged. Certainly the last-mentioned fee should be fixed, for the bull camel nuisance was becoming serious. As to the others, most boards would charge the maximum fees, for the sake of revenue.

HON. M. L. MOSS: If the fees were not discretionary, no by-law would be made.

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

|      |     |     |     |    |
|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 4  |
| Noes | ... | ... | ... | 13 |

Majority against ... 9

**AYES.**  
 Hon. T. F. O. Brimage  
 Hon. W. Mailey  
 Hon. B. C. O'Brien  
 Hon. J. M. Drew (Teller).

**NOES.**  
 Hon. R. G. Burgess  
 Hon. J. W. Hackett  
 Hon. S. J. Haynes  
 Hon. A. Jameson  
 Hon. W. T. Loton  
 Hon. M. L. Moss  
 Hon. G. Randell  
 Hon. J. E. Richardson  
 Hon. F. M. Stone  
 Hon. Sir Edward Witte-  
 noon  
 Hon. B. C. Wood  
 Hon. J. W. Wright  
 Hon. C. E. Dempster  
 (Teller).

Amendment thus negatived.

HON. B. C. O'BRIEN moved that the following be added after Subclause 23: "Imposing a license fee not exceeding 5s. per annum on all goats, and a license fee not exceeding 7s. 6d. per annum on all dogs." These provisions were advisable, as the power was not given elsewhere in the Bill.

HON. J. E. RICHARDSON: As the Bill would apply to the whole State, he objected to the power to tax goats. On some of the DeGrey runs were thousands of goats which did no harm. As well rate sheep. Close to towns the subclause might be unobjectionable.

THE MINISTER FOR LANDS: To place so heavy a tax on goats would be unwise, for their increase should be encouraged, some parts of the State being probably more suitable for goat breeding than any other portion of Australia. As to dogs, ample power was given by the Dog Act.

HON. R. G. BURGESS: To see a gold-fields member try to tax meat was surprising. Many people ate goat's flesh.

HON. B. C. O'BRIEN: Though goats were useful to some poor people, in many towns they were a nuisance, and municipal inspectors complained of their depredations. The 5s. fee was a maximum. Some boards would charge less.

HON. M. L. MOSS: Ample remedies against goats were provided in the Trespass Act of 1882, which aimed at keeping the goats within the owner's property. The Dog Act of 1883 prescribed registration fees: for every dog within a townsite 7s. 6d., for every bitch 10s., for every dog not within a townsite 5s., and for every bitch 7s. 6d. These fees were, in a municipality, collected by the council, and outside by the clerk of petty sessions.

Amendment by leave withdrawn.

HON. B. C. O'BRIEN moved that the following subclause be added after Sub-

clause 25: "Requiring all licensed vehicles, bicycles, tricycles, motor cycles, and motor cars to have their licensed number affixed on some conspicuous part of such vehicle, cycle, or motor car."

THE MINISTER FOR LANDS: The amendment seemed to be a desirable one; it might do good and it could not possibly do harm.

HON. J. E. RICHARDSON: Would it be necessary for a buggy to have a number on it?

HON. B. C. O'BRIEN: Every board might not carry out this provision, but the power should be given them to do so. It was desired that all vehicles should be licensed and numbered. In country towns a man might have a dozen vehicles but only pay a license fee for five or six. It was impossible for the officer who had to collect the fees to check the number of vehicles owned by such a person, but if each vehicle was required to be numbered, then there was a certain check.

HON. J. D. CONNOLLY: The owner of the vehicles could shift the number from one vehicle to another.

HON. B. C. O'BRIEN: Such a thing could be done, but the man would become liable under the Bill.

HON. G. RANDELL: This provision would compel private carriages and little children's tricycles to be licensed. The words "licensed and plying for hire" should be inserted.

HON. J. W. HACKETT: This was not a compulsory provision. It was a power given to the roads boards to make such by-laws as they thought fit. A roads board could leave out a four-in-hand or any other vehicle it liked. He was surprised, in a country such as Australia, that vehicles which did not ply for hire were allowed to tear along the road to the imminent danger to passengers who had the right to use the roads.

MEMBER: What about bicycles?

HON. J. W. HACKETT: The reference he was making was to bicycles and motor cars. In France and on the Continent generally, bicycles and motor cars were numbered with large figures so that a person could see at a glance the number, for these vehicles went at a great pace and did not observe the rules of the road carefully.

HON. G. RANDELL: It should not be necessary to put the number on a

landau or phaeton in a conspicuous place.

HON. J. W. HACKETT: That had not to be done.

HON. G. RANDELL: But the roads boards had the power to make the by-laws.

HON. B. C. O'BRIEN: Many boards would not frame such by-laws, but the power should be given to enable them to do so if necessary.

HON. J. W. WRIGHT: Roads boards should not have the power to cause vehicles to be numbered in some conspicuous place. If the number was to be underneath the buggy then he did not mind, but if the number was in some conspicuous place, people might think the vehicle was plying for hire.

HON. G. RANDELL moved that after "vehicle" the words "plying for hire" be inserted.

SIR E. H. WITTENOOM: As far as bicycles and motor cars were concerned, he sympathised with the proposed new subclause. In the South of France motor cars were to be seen travelling along at the rate of 30 or 40 miles an hour past the street crossings, to the imminent danger of anyone who was riding a horse or bicycle or walking. There ought to be some means of identifying these motor cars. In regard to numbering carriages or private vehicles that appeared to be an outrage.

Amendment passed, and the new subclause as amended agreed to.

HON. G. RANDELL: What was meant by paragraph (b)? Paragraph (a) declared that heavy traffic should be over  $1\frac{1}{2}$  tons, but by paragraph (b) a different definition was given.

THE MINISTER FOR LANDS: Bullock teams were much heavier on the road than other teams or even traction engines.

HON. J. W. HACKETT: Harm was done in the part of the country he represented by jinkers drawn by horses.

HON. R. G. BURGESS: This provision was not required in the Bill at all. It could not be enforced. He moved that paragraph (a) be struck out.

HON. J. E. RICHARDSON: The whole of the subclause should be struck out. Four or five-ton waggons cut up the roads more than bullocks, and bullocks did less harm than horses.

HON. W. MALEY: Paragraph (a) should be struck out, for it would involve the erection of numerous weighbridges. In some districts a driver would not find one weighbridge in a hundred miles.

Amendment passed, and the paragraph struck out.

HON. R. G. BURGESS moved that paragraph (b) be struck out.

Amendment passed, and the paragraph struck out.

HON. R. G. BURGESS moved that paragraph (c) be struck out.

THE MINISTER FOR LANDS: Without this paragraph it would be difficult to define "heavy traffic."

HON. G. RANDELL: As that was sufficiently defined in the Width of Tires Act, the paragraph was unnecessary. These harassing provisions in a Roads Act were very objectionable.

SIR E. H. WITTENOOM: The Minister in charge, instead of allowing these paragraphs to be struck out, should give reasons for their insertion.

THE MINISTER FOR LANDS: The reason was apparent—to define "heavy traffic," and prevent the roads falling into disrepair.

HON. R. G. BURGESS: The explanation was valueless. The Minister knew that hardly a road in the country would carry a heavy load. These provisions were no doubt borrowed from South Australia, where there were weighbridges. To all similar clauses he would object, for they could not be effective unless weighbridges were erected throughout the country.

Amendment passed, the subclause struck out and the clause as amended agreed to.

Clauses 118, 119, 120—agreed to.

Clause 121—Extended powers as to by-laws relating to heavy traffic:

HON. G. RANDELL moved that the clause be struck out. As the provisions could not be carried out, they should not encumber the statute-book.

Amendment passed, and the clause struck out.

Clause 122—agreed to.

Clause 123—Liability of members of boards:

HON. R. G. BURGESS: What members were liable for should be definitely stated. "Wilful misconduct or negligence" evidently referred to neglecting

the road. There were other forms of negligence.

Clause passed.

Clause 124—agreed to.

Clause 125—Government may grant money to boards:

HON. J. W. WRIGHT moved that the following be added as Subclause 3: "Any construction work for which money is granted to a board under this section, shall be placed under the supervision of a qualified engineer approved of by the Minister, and such engineer shall certify to all accounts due for the work for which the money has been granted." The clause worked well in other States where there were extensive roads.

HON. M. L. MOSS: How would it work in the North? In a compact State like Victoria the clause would be excellent, but here it would be a death-blow to Government grants to roads boards in outlying districts, for the moneys could never be lawfully spent. By Subclause 1 grants were not to be considered ordinary revenue; and an express undertaking was obtained from the chairman and the clerk of the board that the money should be applied to the specific object for which it was voted. Such a safeguard would, in outlying districts, be sufficient.

Amendment negatived, and the clause passed.

Clause 126—Rate book and valuation:

HON. G. RANDELL: By Subclause (b) the annual value might be an amount not exceeding £7 10s. per cent. on the capital value of the land in fee simple. The exact meaning was not clear.

HON. M. L. MOSS: The annual value might be either by paragraph (a) the yearly rental, deducting the tenant's rates and taxes and the probable annual average cost of insurance and other expenses necessary to maintain the property, or by paragraph (b) £7 10s. per cent. on the capital value, without deduction.

HON. R. G. BURGESS moved that the words "seven pounds ten shillings" be struck out and "five pounds" inserted in lieu.

HON. T. F. O. BRIMAGE: The matter might be left to the discretion of the boards.

HON. W. MALEY: The taxation of rural lands should be at per acre. It would be difficult to arrive at the value

of farming properties. In South Australia there was an Act in force which empowered boards to tax at per acre, and it had worked well for years.

HON. W. T. LOTON: It was to be regretted that the amendment did not fix a lower amount. Four per cent. was quite sufficient. This taxation applied to small townships; but members were adopting the municipal form of taxation. Take 1,000 acres of land worth £1,000, what would be the taxation on that block at £7 10s. per cent.? Would any owner be able to pay it? It was an exorbitant tax, and would be felt very heavily by numbers of people who resided in the country. People would be taxed out of the country. A fair interest now on money was about 4 per cent. That was the full rate that should be insisted on in the clause; but if the Committee thought that five per cent. was not too high, he was not against that amount. It would be exorbitant to allow boards to fix the rate at £7 10s. per cent.

HON. T. F. O. BRIMAGE: This was one of the clauses which was likely to clash with the pastoral interest, but from a mining point of view it was desired to have the amount fixed at £7 10s. per cent. The clause might be arranged to suit both the pastoral and the gold-mining interests. A rate of  $7\frac{1}{2}$  per cent. was not too much to pay on buildings for housing machinery. It was desired to tax such buildings for the purpose of making roads to them. On the goldfields this amount of taxation was being paid now, although the boards had no legal right to enforce it.

HON. W. MALEY: As far as properties in towns, such as hotels and stores, were concerned, the maximum fixed in the Bill was not too high; but in regard to agricultural lands valued at 10s. per acre, five per cent. on the amount would be 6d. per acre per annum. That was the purchase price of the land. The maximum amount which a farmer could pay would be about 1d. per acre per annum. A person holding 1,000 acres of land had to pay 6d. per acre to the Government, and he might possibly be able to afford an additional penny to the roads board, which would amount to £4. He suggested that there be added to the subclause, "but on agricultural lands the rate shall not exceed 1d. per acre per annum."

HON. F. M. STONE: The subclause did not apply to pastoral leases, only to freehold lands.

HON. A. G. JENKINS: A  $7\frac{1}{2}$  per cent. rate on property worth £1,000 would only amount to £5, and any person who had the privilege or luck to own £1,000 worth of freehold land should not grumble at being asked to pay this amount.

HON. C. E. DEMPSTER: There was an objection to one section of the community being taxed for the general benefit of the whole body. He would support the contention of Mr. Loton that the tax should be fixed at 4 per cent.

HON. R. G. BURGESS: If the goldfields members looked at Clause 164 they would see that there was power to tax the people, which evidently the goldfields members were desirous of doing. Had Mr. Brimage read the balance sheets of the roads boards on the goldfields? If he had, he would see how the boards there spent the money. The hon. member evidently did not know much about the roads boards on the goldfields. The hon. member now desired to tax the goldfields people, but, as a rule, the goldfields people were up in arms as soon as they were taxed. Under Clause 164 the goldfields people had power to tax themselves.

HON. M. L. MOSS: That referred to borrowing.

HON. R. G. BURGESS: Let the goldfields people borrow if they liked, and then they would have to pay the money back again. We should have the same cry on the goldfields directly as there was heard when the Minister for Railways raised the railway rates to the goldfields. He objected to placing another tax on the goldfields people.

HON. T. F. O. BRIMAGE: The remarks of Mr. Burgess showed that he knew nothing of government by roads boards on the goldfields. Considering the cost of constructing roads and the general supervision of roads on the goldfields, the amount asked for in the clause was not too high. Mr. Burgess seemed to think that he (Mr. Brimage) had no experience of road boards; but he had been chairman of a roads board, and had studied the matter carefully. He would be the last to advocate heavy taxation on the gold-mining industry, but at present the mining companies were paying this tax, and were willing to continue to do so

so that roads might be made to their houses and properties. It was to be hoped the Committee would agree to seven and a half per cent., as this amount was necessary for the working of the boards on the goldfields.

HON. J. D. CONNOLLY: It would be desirable to allow the subclause to remain as printed. A tax of £7 10s. would not be found too high after the deductions had been made.

HON. J. A. THOMSON: Local bodies were not compelled to rate themselves in any special manner, and would surely rate as desired by their electors; else the electors had their remedy. The  $7\frac{1}{2}$  per cent. was a maximum, and a lower rate might be imposed. Certain members were most staunch in maintaining some powers of local bodies and equally staunch in curtailing other powers. He supported the clause as it stood.

HON. C. E. DEMPSTER: The rating requirements of goldfields districts, where there were few freeholds, differed from those of districts where freeholds were common. He objected to giving boards power to impose unreasonable rates.

HON. G. RANDELL: While paragraphs (a) and (b) provided alternative systems of rating, the adoption of either was compulsory.

HON. M. L. MOSS: The clause dealt, not with rating, but with making up the rate-book.

HON. G. RANDELL: But rating was made compulsory by Clause 141. For rural lands  $7\frac{1}{2}$  per cent. would be too high. He moved that the clause be postponed till the end of the Bill.

Motion put and negatived.

HON. M. L. MOSS: The clause dealt with fixing the annual value for rating purposes, not with striking a rate. It prescribed either a rental value subject to certain deductions, or in the alternative an amount not exceeding  $7\frac{1}{2}$  per cent. on the capital value without deductions; but the board could fix the rate at even 1 per cent. on the capital value. In the Municipal Act three methods were provided: an annual rental value for unimproved lands £7 10s. per cent. without deduction, and for improved lands not less than 4 per cent. By Clause 141, as introduced in the Lower House rating was discretionary, and though this had been altered, the original

provision might be restored. As to the annual value, he believed 5 per cent. to be sufficient; but the £7 10s. was only a maximum.

HON. R. G. BURGESS: The clause would apply only to freehold land, and not to the mining properties referred to by Mr. Brimage.

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

|      |     |     |     |    |
|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 8  |
| Noes | ... | ... | ... | 10 |

Majority against ... 2

| AYES.                   | NOES.                 |
|-------------------------|-----------------------|
| Hon. C. E. Dempster     | Hon. T. F. O. Brimage |
| Hon. J. M. Drew         | Hon. S. J. Haynes     |
| Hon. J. W. Hackett      | Hon. A. Jameson       |
| Hon. W. T. Loton        | Hon. A. G. Jenkins    |
| Hon. G. Randell         | Hon. W. Maley         |
| Hon. J. E. Richardson   | Hon. M. L. Moss       |
| Hon. Sir George Shenton | Hon. B. C. O'Brien    |
| Hon. R. G. Burgess      | Hon. J. A. Thomson    |
| (Teller).               | Hon. J. W. Wright     |
|                         | Hon. J. D. Connolly   |
|                         | (Teller).             |

Amendment thus negatived.

HON. W. MALEY moved that the following be added to paragraph (b) of Clause 2: "but on agricultural lands the rates shall not exceed one penny per acre per annum."

#### POINT OF ORDER.

HON. G. RANDELL: Was the amendment in order, as it proposed to impose a new tax?

THE CHAIRMAN ruled the amendment out of order.

HON. W. MALEY: The amendment only limited the tax; it did not introduce any new impost. He would move his amendment as a suggestion to the other House.

HON. G. RANDELL: The hon. member could not submit the amendment as a suggestion, because it introduced new taxation.

THE CHAIRMAN: The proposal could not be submitted as a suggestion.

HON. W. MALEY moved that the ruling of the Chairman be not agreed to.

THE CHAIRMAN: Standing Order 140 stated: "If any objection be taken to a ruling or decision of the Chairman of Committees, such objection shall be taken at once, and having been stated in writing, the Chairman shall leave the Chair and the Council shall resume, and the matter be reported to the Council; and, having been disposed of, the proceedings in Committee shall be

resumed where they were interrupted. The hon. member would submit his point of order in writing.

THE PRESIDENT resumed the Chair.

THE CHAIRMAN stated the point of order.

THE PRESIDENT said he agreed with the ruling of the Chairman of Committees. The Bill came from the Assembly, and provided the manner in which certain taxation should be levied by roads boards. The amendment proposed a new method of taxation. It was laid down clearly May that "it is the undoubted and so right of the Commons to direct, limit, and appoint in such Bills the ends, purposes and considerations, conditions, limitations, and qualifications of such grants which ought not to be changed or altered by the House of Lords."

#### IN COMMITTEE.

HON. C. E. DEMPSTER: Where roads had been constructed within 250, or 100 miles of a lease, it was unjust to make the pastoral lessee pay rates. He moved to add to proviso (a) the words: "But no rates shall be charged where any roads have been made by either the Government or any roads boards within 10 miles of such lease."

THE MINISTER FOR LANDS: The clause did not deal with making rates, and the effect of the amendment would be that pastoral lessees would not have roads within 10 miles of their leases, the Government subsidy was pound for pound with the moneys raised by rating.

HON. J. W. HACKETT: Would the mover consent to exempt the South West?

HON. G. RANDELL: Was not the amendment out of order, because it sought to vary the method and mode of taxation in a Bill sent up from the Lower House?

THE CHAIRMAN: Yes. To deal with such a matter was beyond our powers.

Amendment lapsed.

THE MINISTER FOR LANDS moved that the following be added to Subclause 2: "But subject thereto the valuation shall be made on the assumption (if necessary to be made) that the subletting of the land is authorised by law."

Amendment passed, and the clause amended agreed to.

Clause 127—Assessment on unimproved values:

**HON. C. E. DEMPSTER:** Against this dangerous clause a select committee had already reported. He moved that it be struck out.

**HON. J. W. HACKETT:** Why were mining leases excepted?

**THE MINISTER FOR LANDS:** This was not a Government clause. He did not think it right to rate one description of property and not another, thus laying the burden of rating on a section of the community.

**HON. W. MALEY:** Though he had heard a lecture by Henry George on this subject, he was not convinced that anything could be gained by unimproved value taxation. Unimproved land had practically no value: its value resulted from improvements; and not everyone in a new town could build an hotel and so pay rates easily. It was unreasonable to tax the land adjoining the hotel because of the increased value resulting from the proximity of that building. He supported the amendment.

**HON. G. RANDELL:** Had the amendment not been moved, he would have moved it. To introduce this new principle without consideration would be most objectionable.

**HON. J. A. THOMSON:** In support of unimproved value taxation he had not expected to be obliged to speak. By the Bill the adoption of the system was made optional. No one who had the interests of the country at heart need fear to grant this power to a local body, for its use would not mean higher taxation. A man living near Perth had seven acres of land unimproved, on which he paid an annual roads board rate of £2. In the neighbourhood he had one and a half acres highly improved, on which he paid £3 10s. Thus he was taxed and penalised for improving the value of his own and neighbouring lands, and leniently dealt with for letting seven acres lie idle. Under unimproved value rating, this person would not have to pay more in the aggregate; for though paying more on the unimproved land, he would pay much less on the improved. It was suggested that unimproved rating would leave large property owners at the mercy of the poorer ratepayers; but the poor must be considered as well as the rich, and who had a right to oppose the ratepayers if they favoured such a system? How could

any fair-minded man oppose the clause, seeing that it was not mandatory but permissive, and that roads boards and municipal conferences had declared in its favour? If local bodies were not to be trusted, they should be abolished.

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

|      |     |     |     |    |
|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 11 |
| Noes | ... | ... | ... | 7  |

Majority for ... 4

**AYES.**  
 Hon. T. F. O. Brimage  
 Hon. R. G. Burges  
 Hon. C. E. Dempster  
 Hon. J. W. Hackett  
 Hon. A. Jameson  
 Hon. W. T. Loton  
 Hon. W. Maley  
 Hon. G. Randall  
 Hon. J. E. Richardson  
 Hon. Sir George Shenton  
 Hon. S. J. Haynes  
 (Teller).

**NOES.**  
 Hon. A. G. Jenkins  
 Hon. M. L. Moss  
 Hon. B. C. O'Brien  
 Hon. C. Sommers  
 Hon. J. A. Thomson  
 Hon. J. W. Wright  
 Hon. J. M. Drew  
 (Teller).

Amendment thus passed, and the clause struck out.

At 6-35, the **CHAIRMAN** left the Chair.

At 7-30, Chair resumed.

Clause 128—Valuation of subdivided lots:

On motion by **HON. J. D. CONNOLLY**, progress reported and leave given to sit again.

**SUPPLY BILL, £500,000.**

**ALL STAGES.**

Received from the Legislative Assembly, and, on motions by the **MINISTER FOR LANDS**, Standing Orders suspended, and the Bill passed through all stages without debate.

**PUBLIC WORKS BILL.**

**IN COMMITTEE.**

Resumed from the 6th November; **HON. M. L. MOSS** in charge.

First Schedule:

**HON. M. L. MOSS** moved that the words "An Act to farther amend the Railways Act, 1878," in lines 11 and 12 of second column, be struck out, and "An Act to amend the Railways Amendment Act, 1879" inserted in lieu.

Amendment passed, and the schedule as amended agreed to.

Schedules 2 to 8, inclusive—agreed to.  
 Clause 3 (postponed)—Repeal; First Schedule:

HON. M. L. MOSS: This clause had been postponed because of the inaccuracy in the schedule.

Clause passed.

Clause 12 (postponed)—Crown lands, reserves, etc. :

HON. M. L. MOSS: The Parliamentary Draftsman agreed with him that Subclause 2 conferred sufficient protection against compulsory taking on all reserves within the meaning of the Permanent Reserves Act of 1899.

HON. T. F. O. BRIMAGE: Could Class A reserves be interfered with?

HON. M. L. MOSS: Not except by special Act.

HON. J. D. CONNOLLY: Did the Permanent Reserves Act save other than Class A reserves?

HON. M. L. MOSS: The Government would have the right to take reserves other than Class A, but only on paying full compensation as to a private person. This power the State must have, as it might be necessary to make a railway through a reserve.

HON. W. MALEY: The Adelaide City Council had successfully resisted the determination of the Government to make a railway through Victoria Square, in the heart of the city. To Class A reserves protection should be given. In one part of this State temporary reserves created had gradually disappeared, being cancelled and disposed of to private persons without opportunity being given for protest.

Clause passed.

Clause 13 (postponed)—Power to Minister to take water or acquire land for the purpose of supplying water for railway or other purposes:

HON. L. M. MOSS: When asked whether the Government were bound to pay compensation for water taken, he had answered in the negative, stating that compensation would be given for injury to the land or improvements only. On his submitting the matter to Cabinet, Ministers agreed it would be unfair to take water which a person had impounded, for it might often be more valuable than the land itself. To meet the case, he moved that Subclause 4 be struck out, and the following subclauses inserted:—

(4.) In exercise of the powers conferred by this section as little damage as possible shall be done, and compensation shall be made to

the owner or occupier of land for water impounded, diverted, or taken therefrom, and for damage done or occasioned by the exercise of such powers.

(5.) Such compensation shall be ascertained and settled in the manner provided by an agreement made by the Minister, or in the manner provided by Part III. of this Act.

HON. T. F. O. BRIMAGE: Even the amendment would not properly protect owners of large dams for watering stock. Take away the water, and in the summer the stock would die of thirst. Some compensation should be provided for the pastoralist, especially in country where only a certain rainfall was recorded in the summer season.

HON. J. A. THOMSON: Seeing that compensation had to be made to the owner of land from which water was taken, if by reason of taking that water away sheep or cattle died, the owner would be entitled to compensation; and a Government official having recommended that the water be taken away at the risk of killing the stock, the Government would have to pay compensation for the stock.

Amendment passed; clause as amended agreed to.

Clause 20—Effect of notice on reserves

HON. M. L. MOSS moved that the following be inserted at the beginning of the clause: "Subject to the provisions of the Permanent Reserves Act, 1899" also, in line 6, that the words "whether made under the authority of any statute or otherwise" be struck out.

Amendments passed; clause as amended agreed to.

Clause 34—All persons suffering damage entitled to compensation:

HON. M. L. MOSS moved that in line 3 of Subclause 2, after "of" the word "land" be inserted; also that in line 4 of Subclause 4, "or a public reserve" be struck out, and "lawfully" inserted in lieu.

Amendments passed; clause as amended agreed to.

Clause 64—How compensation to be estimated in other cases:

HON. G. RANDELL moved that in line 3 the word "damage" be struck out and "compensation" inserted in lieu.

Amendment passed; clause as amended agreed to.



Clause 101—Railways to be made only under special Act :

HON. J. W. HACKETT: What changes had been made in the existing law?

HON. M. L. MOSS: The group of clauses from 101 to 117 were largely a copy of a number of similar powers in the New Zealand Act of 1894. The powers were vested at present in the Commissioner of Railways to enter land for railway construction, and were contained in the Railways Act of 1878. Largely, these powers were contained in Section 12 of that statute, and were copied from the English Act. Section 12 was drawn in a very old-fashioned way, and it would be difficult to take each clause from 102 to 117 and deal with each point and say what were the powers contained in these clauses which were to be found in the Act of 1878. Indeed, he could not do that, for the reason that the powers that the Government sought to enact at the present time were more extensive in some respects and better in some instances than those contained in the Railways Act of 1878. The Parliamentary Draftsman had underlined in Section 12 of the old Act of 1878 such portions as were contained in Clauses 101 to 117 of the Bill, and in the Bill which he had before him he had a reference to the similar sections of the New Zealand Act. It would be fair comment to say that all the powers contained in Section 12 were contained in Clauses 101 to 117, modified in some respects to give the Minister greater power; but they were all necessary from a public point of view, and it was necessary that the Minister should have the authority. The Parliamentary Draftsman had informed him, after a careful comparison of similar sections in the various Australian Acts, that the clauses of the Bill were best suited to the requirements of the State, and gave the Minister the powers which were best suited to the State generally. The extract from the Railways Act of 1878 furnished by the Parliamentary Draftsman was open to the inspection of members, also the copy of the Bill which had been noted by the Parliamentary Draftsman. When the Bill had passed through Committee, he intended to fix the third reading stage at such a date that the Bill could be reprinted with the various

amendments, and members would then have an opportunity of making a careful perusal of the measure: no obstacle would be placed in the way of the Bill being recommitted, if thought desirable. It would be a very serious matter for the Government and the State if the Bill did not pass, because the Fremantle Harbour Trust Bill, the Roads Bill, and some other measures were largely dependent on it. Besides that, the Commissioner of Railways, instead of having all the powers vested in him by the Railways Act of 1878 both for the management and construction of the railways, was now more an officer of the Government in charge of the management of the railways. It now became part of the policy for a Minister for Railways to have the power of construction, and it could not be given until the Bill passed into law. Therefore, members would see the importance to the State of the Bill being placed on the statute-book. It must be recognised also that injury might be done to vested interests if this Bill was not passed. He intended to fix the third reading at a distant date, so that members would have an opportunity of picking the Bill to pieces, if necessary.

Clause passed.

Clause 102 (postponed) — Procedure for making railways :

HON. M. L. MOSS: Better pass the clause and recommit as soon as the Bill was reported.

Clause passed.

Clause 103 (postponed)—agreed to.

Clause 104 (postponed)—Powers to make railways and railway stations, etc. :

HON. M. L. MOSS moved that the words "subject to the provisions of Part III." be inserted after "shall," in line 1 of Subclause 3.

Amendment passed.

HON. G. RANDELL moved that the following be added to the clause: "Provided always that wherever loss or damage is occasioned to owners of private lands under this section, compensation shall be paid to such owner as may be ascertained under the provisions of Part III. of this Act and Section 102, Subsection (f)."

HON. M. L. MOSS: The preceding amendment rendered this unnecessary. Part III. provided for compensation.

Amendment by leave withdrawn; clause as previously amended agreed to.

Clause 105 (postponed) — Rights-of-way and traffic where railway made along or across a road on a level :

HON. J. W. HACKETT: Did not the first paragraph involve the closure of all roads and streets not exactly on a level, and which might be crossed by a railway?

HON. M. L. MOSS: But the railway could not be constructed without a special Act; therefore parliamentary sanction was necessary for closures.

HON. J. W. HACKETT: A special Act was not sufficient protection save in sparsely-inhabited country where roads and streets were of little importance. By the special Act the Minister might resume a strip of land two miles on each side of the railway, and thus could almost at will close any road or street by running a railway across it. In municipalities that power was too much to give to a Minister. Either the power should be limited, or its result should be brought more definitely under the notice of Parliament.

HON. M. L. MOSS: Deal with the clause on recommitment.

HON. G. RANDELL: By Subclause 2 traffic was not allowed to cross the railway when an approaching engine was within a quarter of a mile of the crossing. At the William Street crossing he had been kept waiting 25 minutes, though there were in that period several opportunities for opening the gates and allowing traffic to proceed, without hindrance to the working of the railway. The Minister should impress on the Railway Department the necessity for showing the public more consideration.

Clause passed.

Clause 106 (postponed) — Compensation where road interfered with or wholly closed :

HON. M. L. MOSS moved that the word "but," in line 7 of paragraph (a) of Subclause 2, be struck out, and "if" inserted in lieu.

Amendment passed; clause as amended agreed to.

Clause 107—Government to make crossing to give access to land :

HON. M. L. MOSS moved that in line 3 the word "may" be struck out and "shall" inserted in lieu.

HON. J. W. HACKETT: The amendment appeared to be giving a great deal, but it amounted to nothing at all. All

the Minister was bound to do was to make such crossings as might be necessary to give access to land, and the Minister was the judge of what was necessary, and what the crossing should be. When the Eastern railway was being constructed through Perth the late Engineer-in-Chief endeavoured to carry into effect provisions somewhat similar to those in the Bill. He closed a number of streets, and said that to go half a mile round was a sufficient and convenient access. Not only was it inconvenient but it destroyed people's property. If a railway was carried along an embankment, or was raised above the level of the ground to escape making a bridge, the Minister could point to the clauses of the Bill and say that the railway did not cross at the level. The same thing occurred at Havelock Street, and at the time he (Dr. Hackett) expostulated with the Engineer-in-Chief, who insisted that it was quite right to do what was being done. If members turned to the records of another place they would see that the Minister for Railways was appealed to on the question, and absolutely declared that the closing of Havelock Street, which was effected by the dumping down of about a hundred trucks of sand, was done temporarily. A few months afterwards it was discovered that "temporarily" meant temporary first, and afterwards permanent. He (Dr. Hackett) spoke to the Engineer-in-Chief, who boasted about it, and within a year or so an agitation commenced for the reopening of the road. This was a sample of several things which happened in Perth; therefore it was necessary for members of the Council, who were generally vested with the duty of seeing that rights were conserved, to look into the matter carefully. The Minister only had to raise a railway line a little or to sink it a little to enable him to cross a road over which the railway passed.

HON. J. A. THOMSON: The powers proposed by the clause were altogether too great. He moved that in line 2 the word "all" be struck out.

HON. J. W. HACKETT: That had better be done on recommitment.

HON. J. A. THOMSON: Perhaps it would. It was necessary to have the powers in the Bill somewhat curtailed.

HON. G. RANDELL: In a case of this kind the Minister should not be the judge. Evidence should be taken as to the necessity. The clause did not constitute the Minister the judge of what might be necessary to give access to land. In the case of Havelock Street crossing, this was a gross, unparalleled, and illegal case. He could never understand why the Perth City Council should have permitted this to be done. There was a most excellent way of getting from one part of Perth to another by a subway; but when the line was duplicated between Perth and Fremantle the opportunity was taken of lowering the grade, and instead of allowing the bridge that had existing for years before along Havelock Street from south to north to remain, this roadway was built up. This was an act for which in some countries the Minister would have been impeached in Parliament. The people should insist on having a subway again built. A large population existed on both sides of the line, and it was an increasing population. A gross injustice had been done to the residents of Havelock Street and other places. He did not wish to see anything of the kind done again. He quite agreed with giving large powers to the Minister for Works and Railways, but the rights of the public should be conserved.

Amendment passed; clause as amended agreed to.

Clause 108—Road or street wholly closed before passing of Act to be deemed lawfully closed:

HON. J. D. CONNOLLY: Would the passing of the clause prevent the re-opening of Havelock Street? He moved that the clause be struck out.

Amendment passed, and the clause struck out.

Clause 109—Maintenance of public roads at railway crossings on the level:

HON. M. L. MOSS moved that at the end of Subclause 2 the words "but in case of decay from any cause other than the default of the local authority, the same shall be repaired or reinstated by the Minister" be inserted.

Amendment passed; clause as amended agreed to.

Clause 110—Alteration in roads, drains, pipes, etc., to be made without detriment to the public or to owners:

HON. M. L. MOSS moved that in line 5, after "made," the words "at the cost of the Minister" be inserted.

Amendment passed; clause as amended agreed to.

Clauses 111, 112, 113—agreed to.

Clause 114—Tree dangerous to railway to be removed:

HON. M. L. MOSS moved that in line 1, after "any," the word "private" be inserted.

Amendment passed.

HON. B. C. O'BRIEN: Would the clause apply to private railways?

HON. M. L. MOSS: No.

Amendment passed.

HON. G. RANDELL moved that the words "he may require the owner or occupier of such land to remove such tree; and in default of such removal," in lines 3, 4, and 5, be struck out.

Amendment passed; clause as amended agreed to.

Clause 115 (postponed)—Penalties for trespassing on railway in course of construction:

HON. J. D. CONNOLLY: Subclause 3 provided for a trespasser being seized by any person in charge, and detained until he could be conveniently taken before a justice. This was too drastic. He moved that the subclause be struck out.

HON. M. L. MOSS: An ordinary railway porter had, on occasions, a power to arrest. None had a right to trespass wilfully on railway works, amid valuable plant and perhaps dangerous explosives; and it was only on refusing to leave that the trespasser would be arrested.

Amendment negatived; clause passed.

Clause 116 (postponed)—Crown may elect to erect fences along boundaries of railways:

HON. R. G. BURGESS objected to the last four lines of the clause, providing that the assessors should take into account as against compensation the cost of the *Gazette* notices declaring that fences were to be maintained by the Crown. He moved that all the words after "accordingly," in line 11, be struck out.

HON. G. RANDELL: It should not be mandatory that the assessors should take such publication into account. He moved that the word "shall," in line 12, be struck out and "may" inserted in

lien. The erection of fences was beneficial to the owner.

HON. R. G. BURGESS: Compensation for the severance of property by a railway was always insufficient.

HON. J. E. RICHARDSON: The erection of fences was often detrimental to the landowner, whom it seemed mean to charge with the cost of publishing notices.

HON. C. E. DEMPSTER supported Mr. Burgess. First valuable property was severed and improvements not allowed for; and to charge the owner for advertisements would add insult to injury. A railway fence was of no advantage to the landowner, but rather a hindrance.

Amendment (Mr. Randell's) passed.

Amendment (Mr. Burgess's) put, and a division taken with the following result:—

|      |     |     |     |   |
|------|-----|-----|-----|---|
| Ayes | ... | ... | ... | 7 |
| Noes | ... | ... | ... | 4 |

Majority for ... 3

| AYES.                 | NOES.             |
|-----------------------|-------------------|
| Hon. R. G. Burgess    | Hon. A. Jameson   |
| Hon. J. D. Connolly   | Hon. M. L. Moss   |
| Hon. C. E. Dempster   | Hon. G. Randell   |
| Hon. A. G. Jenkins    | Hon. S. J. Haynes |
| Hon. W. T. Loton      | (Teller).         |
| Hon. B. C. O'Brien    |                   |
| Hon. J. E. Richardson |                   |
| (Teller).             |                   |

Amendment thus passed; clause as amended agreed to.

Clause 117—agreed to.

Clause 120—Buildings exempted from local building regulations:

HON. G. RANDELL moved that in line 4 after "same" the words "except such as relate to public health" be inserted.

Amendment passed.

HON. J. D. CONNOLLY moved that the clause be struck out. It was unfair that buildings on a railway should not come under the local building regulations, and the definition of railway included land which had been set apart for railway purpose but not immediately used. The Commissioner of Railways could lease such land and an inflammable building might be erected upon it adjoining some costly structure; in such case the building regulations would not apply to the buildings on the railway land. The Railway Commissioner should be subject to the same by-laws as private individuals. The

Perth City Council had the right to grant licenses to erect temporary buildings for a term of one, two, or three years, and wooden buildings could be erected under that law. It was not asking the Government or the Railway Commissioner too much to comply with the same by-laws as the individual had to comply with.

HON. M. L. MOSS: Taking the Government buildings which had been erected in Perth, and excepting such a building as the temporary Supreme Court which was put up to meet a pressing necessity, the Government buildings more than complied with the building regulations of the Perth Council. The Government should not be expected to go to the Perth Council to submit plans of their buildings and pay the fees for the passing of those buildings. The striking out of the clause would not affect the Government, because the Crown could put up any building, the Crown not being bound by any statute, but contractors would be affected.

HON. J. D. CONNOLLY: Why insert the clause in the Bill, then?

HON. M. L. MOSS: For the protection of contractors, who would have to go to the Perth Council and pay the building fees and have the plans of the buildings approved. The Government did not erect buildings which were likely to endanger structures put up by private individuals.

Amendment negatived; clause as previously amended agreed to.

Bill reported with amendments.

#### RECOMMITTAL.

On motion by Hon. M. L. Moss, Bill recommitted for the reconsideration of Clauses 28, 100, 101, and 102.

Clause 28—Land may be taken for any public work after or during completion:

HON. M. L. MOSS moved that in line 1 of Subclause (b), after "desirable," the words "to take other land" be inserted; also that in line 3 the words "to take other land" be struck out.

Amendments passed; clause as amended agreed to.

Clause 100—Definition of railway:

HON. M. L. MOSS moved that in lines 2 and 3 the words "under special Act" be struck out.

Amendment passed; clause as amended agreed to.

Clause 101—Railways to be made only under special Act:

HON. M. L. MOSS moved that the following subclauses be added:—

(2.) Before the second reading of the special Act in the Legislative Council and the Legislative Assembly, respectively, the Minister shall cause a map, to be referred to in the special Act, showing the course to be taken by and the middle line of the railway, to be laid upon the table of the House.

(3.) On the passing of the Act the map, signed for the purpose of identification by the Clerk of Parliaments, shall be deposited by him in the office of the Master of the Supreme Court, and shall be open to public inspection at any reasonable hour free of charge, and shall be admitted in all courts for all purposes as evidence of the line authorised by the special Act.

Amendment passed; clause as amended agreed to.

Clause 102—Procedure for making railways:

HON. M. L. MOSS moved that the word "authorised" be inserted after "is," in line 1; that the words "under the provisions of a special Act," in lines 1 and 2, be struck out, and that Subclause (a) be struck out.

Amendments passed.

HON. G. RANDELL moved that the words "from the date named in such notice, not being earlier than the date of the first reading of the special Act in the Legislative Assembly," in lines 3 to 5 of Subclause (d), be put in brackets.

Amendment passed; clause as amended agreed to.

Bill reported with farther amendments, and the report adopted.

#### ADJOURNMENT.

The House adjourned at 9-23 o'clock, until the next Tuesday.

## Legislative Assembly.

Thursday, 13th November, 1902.

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THE DEPUTY SPEAKER took the Chair at 2-30 o'clock, p.m.

#### PRAYERS.

#### QUESTION—EXHIBITIONS, COST.

MR. HASTIE asked the Treasurer: 1, What was the total cost to the State of the Exhibition at (a.) Coolgardie, (b.) Paris, (c.) Glasgow? 2, What is expected to be the total cost of exhibiting at the Colonial Exhibition at London.

THE TREASURER replied:—1, (a.) £18,759 11s. 1d., (b.) £31,560 19s. 6d., (c.) £15,536 13s.; 2, £2,000.

#### LEAVE OF ABSENCE (MR. SPEAKER).

THE PREMIER moved that leave of absence for one fortnight be granted to the Honourable the Speaker, on the ground of illness. In making this motion he felt sure that he carried with him every member of the House in an expression of deep sorrow that the Speaker should be ill, and of hope that he would soon be sufficiently recovered to preside again over their deliberations.

MEMBERS: Hear, hear.

Question passed.

#### INSCRIBED STOCK ACT AMENDMENT BILL.

Introduced by the TREASURER, and read a first time.

#### POST OFFICE SAVINGS BANK CONSOLIDATION ACT AMENDMENT BILL.

Introduced by the TREASURER, and read a first time.