That was too disputative a question for the Federal Council to deal with.

MR. GEORGE said he did not want to throw any difficulties in the way of the Federal Bill, and he would withdraw his suggestion.

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

ADJOURNMENT.

The House adjourned at 9 o'clock, p.m., until the next Tuesday.

Legislative Assembly,

Tuesday, 18th August, 1896.

Motions: Leave of absence—Post Office Savings Bank Bill: first reading—Criminal Evidence Bill: first reading—Motion: Inquiries into railway collisions—Federal Council Reference Bill: third reading—Constitution Act Amendment Bill: re-committed—Married Women's Property Act Amendment Bill: second reading; in committee—Bankruptcy Act Amendment Bill: second reading; in committee—Statutory Declaration Bill: second reading—Adjournment.

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

PRAYERS.

MOTIONS—LEAVE OF ABSENCE.

On the motion of the PREMIER, leave of absence for one fortnight was granted to the member for East Kimberley (Mr. Connor).

On the motion of MR. ILLINGWORTH, leave of absence for one fortnight was granted to the members for Albany (Mr. Leake), and Pilbarra (Mr. Keep).

POST OFFICE SAVINGS BANK BILL.

Introduced by the PREMIER, and read a first time.

CRIMINAL EVIDENCE BILL.

Introduced by MR. JAMES, and read a first time.

MOTION—INQUIRIES INTO RAILWAY COLLISIONS.

MR. RANDELL, in accordance with notice, moved "That this House is of opinion that the minutes and evidence, or, at least, the results of the departmental inquiries into the recent collisions on the railways, should be laid on the table of the House." He said his desire in submitting this motion was to afford the Commissioner of Railways an opportunity of removing the alarm from the public mind which had been caused by recent accidents or collisions on the railway, and to enable the Commissioner to state what action the Government were taking for inquiring thoroughly into the causes of recent railway accidents, and for preventing their recurrence. A public opportunity, such as that afforded by this motion, would enable the Commissioner, if he so desired, to make an authoritative statement on the subject which might have a distinctly reassuring effect.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) said no doubt the hon. member for Perth was prompted by a desire to obtain all particulars as to the reasons or causes of certain accidents which had taken place recently on the railway. It was pretty well known there had been one or two accidents lately which certainly had alarmed the public mind; but, with the exception of the unfortunate accident at Lion Mill, on the Eastern line, there had been no loss of life. The recent accident at the Midland Junction was one which he was about to inquire into, commencing on the next day. With reference to the accident at the Lion Mill, as he had pointed out before, a conference of officers of the department had been dealing with that matter, and an inquiry had also been made into the circumstances, with the result that certain resolutions were arrived at in that conference, and effect had been since given to them. He would read, for the information of the House, the resolutions agreed to at that conference. The conference was held on Wednesday, 15th July, 1896, and there were present

the Engineer-in-Chief, the General Traffic Manager, the Engineer of Existing Lines, the Locomotive Superintendent, Mr. Evans (Interlocking Engineer), and myself. It was resolved:—

"(1.) That a shunting siding with a runaway incline at end of it, should be constructed in the vicinity of the Lion Mill station, and that the distant signalling be re-arranged to suit it. (2.) That a loop-siding and also a runaway siding in connection therewith should be put in at Parkerville; also that another platform should be built at Parkerville. (3.) That Swan View and the 24-Mile be treated similarly. (4.) That the instruction under date 9th July, 1896 (special train notice No. 277, to the effect that the second engine of trains requiring more than one locomotive should be at the rear of the train on section Midland Junction to Chidlow's Wells), should apply to all ascending gradients between the Midland Junction and Mount Baker, but need not apply to passenger trains protected by continuous air-brakes. (5.) In consequence of this, provision has to be made at Mount Baker for a siding to admit of the engines being reversed. (6.) No train load should exceed what one class "K" engine can haul. (7.) That the drawgear of all private companies' rolling stock be altered in order to conform with the Government standard automatic coupling, at the Government expense, and that the Locomotive Superintendent be requested to take steps to have the same done as rapidly as possible. (8.) That all trucks that have not already got two brakes should have two brakes, one on each side. (9.) The question of the desirability of having double choppers in place of single choppers on all rolling stock to receive consideration."

The evidence in connection with one of the accidents alluded to by the hon. member had been taken by officers of the department, and the result was that the mishap was found not to be due to the carelessness of any officer, but was purely accidental, caused by the breaking of a link in a coupling; and, with the view of preventing such accidents in future, steps were about to be taken by the department which would minimise the danger and tend to reassure the travelling public. Possibly an accident of this kind might occur at any time, from causes beyond control. The House would give the Government credit for having tried to do all that was possible to prevent the recurrence of these accidents. He would like to mention that the department quite recognised the gravity of the situation, and was taking all practicable measures for preventing such mishaps in future. The department had great difficulties to contend with in working the increased traffic safely and satisfactorily on the single line between the Midland Junction and Fremantle. Yet, although the traffic was considerable on this portion of the railway, accidents on it had not been frequent, those which had occurred being merely derailments, and not of a serious character. The death resulting from the accident at the Lion Mill was the only one which had occurred during the whole time the railways had been run by the Government, with the exception of occasional fatalities caused by persons falling out of a train or getting into or out of a train while in motion. This fact showed that the Government had endeavoured to do whatever was practicable in carrying on the traffic with safety. As to the accident at the Midland Junction, he had arranged to call, at the inquiry, those persons who had been present at the time, or were in any way concerned in it, also various officers of the department, as well as the Engineer-in-Chief, and some of the officers of the Midland Railway Company. The circumstances of that accident would be fully investigated, with a view to attaching the blame, if any, to those properly responsible for it, and also for preventing any similar recurrence. After that accident, he had asked the Engineer of Existing Lines to prepare a statement showing what provision had been made for signals on the railway; and probably it would be found that the absence of signalling apparatus on this occasion was, in a great measure, the cause of the accident. On this subject he read to the House a report from the Engineer of Existing Lines, as follows:—

Memorandum for Hon. Commissioner of Railways.

Perth, August 10th, 1896.

You asked me to give you some information as regards the progress made with the signalling of railway stations of the colony. I may say that till quite a recent date the railways were practically without signals and interlocking; but, during the last year, and specially during the last four months, active measures have been taken to order the necessary material and further the work as fast as possible. In reference to the main stations, and interlocking and signalling for them, the following works have been ordered and are in hand or completed:—Perth Station—A and B cabins completed and at work; Picton Junction—Materials were ordered on

22nd February, 1896, and expected daily by the "Maori King;" Clackline Junction—Material has arrived, and the work is in the hands of Messrs. McKenzie & Holland; Jarrahdale Junction—Materials were ordered on 26th June, 1896; Mullewa Junction—Materials were ordered on 6th July, 1896; Lion Mill Junction—This has been finished and is in use; New Midland Junction Station—Authority was given Messrs. McKenzie & Holland on the 23rd June, 1896, to signal and interlock all the stations between Fremantle and Midland Junction, including the following:—North Fremantle, Cottesloe, Claremont, Subiaco, Bayswater Junction, Bayswater Station, Guildford, Guildford Show Ground (Woodbridge), Midland Junction. In the meanwhile I have sought to hurry on the signalling with the material that had arrived, viz., 20 home and 20 distant signals, and, to further the matter, requested Messrs. McKenzie & Holland's agent, on the 27th April last, to inform me how best to utilise these at the most urgent stations, and he reported that they were sufficient to signal the following stations:—Subiaco, Cottesloe, Fremantle, North Fremantle, Guildford, New Midland Junction, Northam, Spencer's Brook, Beverley. On the 18th June Messrs. McKenzie & Holland were authorised to proceed with this work at once (*See* E.E.L., 3654-96), and asked to put the work in hand as soon as possible. On the 30th May I also ordered by cable, through Messrs. McKenzie & Holland, 200 sets home signals, 200 sets distant signals, 300 point indicators. In the meanwhile, to hurry on with the most urgent works in providing point indicators, I obtained 36 from Melbourne, and received 80 by late steamer from England, and instructed Messrs. McKenzie & Holland and Mr. Hayden to fix them at most urgent places. In regard to the additional 200 home and 200 distant signals and 300 point indicators ordered, these will be sufficient to do all the crossing and other important stations. The material (cabled for on the 30th May, 1896) will come out in four lots, so that the works can proceed immediately on the arrival of the first instalment. In regard to Midland Junction Station, although Messrs. McKenzie & Holland have been authorised to put up, urgently, the home and distant signals, these were not completed, but were well in hand, and delayed for some iron fittings now on their way from Melbourne, expected daily, and when these arrive the work can be finished in two days.

W. W. DARTNALL,
Engineer-in-Charge of Existing Lines.

He desired to point out that the department quite recognised that something should be done to provide signalling between the different stations. Up to the present, all that was possible to be done with the existing facilities had been done; and the department fully recognised the desirability, in view of the greatly increasing traffic, of providing proper signals at the different stations, especially upon busy lines. Persons who had recently travelled between Perth and Fremantle would have noticed that signals were being erected at all the stations, to insure greater safety to the travelling public, and the drivers of trains would thus be enabled to signal when approaching a station. With regard to a recent accident of a minor character at Fremantle, the other day, owing to the derailment of a train, no doubt it was caused by carelessness on the part of a platelayer; and it was much to be regretted that this accident had occurred—indeed, no one regretted it more than the department. When, however, it was stated in the Press, or elsewhere, that the department did not recognise the gravity of the situation with reference to these accidents, he thought it was unfair to cast such an aspersion on the department, which was desirous of doing all that was possible for protecting the travelling public. These Press reports had been very favourable, in many ways; but occasionally there were statements or allusions which conveyed the impression that the department was not trying to do all that was practicable for preventing accidents, and that the Press felt it to be its duty to make these statements. He thought, on the contrary, that it would have been only just if the newspapers had given some credit to the department for trying to do all that was practicable, with the means available, for preventing accidents and protecting the travelling public. Some of these statements had gone so far as to suggest that the department was responsible for almost trying to bring about accidents. It had been mentioned also that inquiries had been made, from time to time, by Press reporters, for obtaining information from him as Commissioner of Railways in reference to the causes of accidents which had occurred, and that he had not always given the information which he might have given. In reply to that, he might say that he had never withheld any information from the Press reporters in any instance relating to railway accidents, but had given them all the information he was able to give, and which he thought they ought to have. There were, at times, certain facts cropping up which were known to the department, and probably

it would be no information to make these facts known to the public, as they more particularly affected the working of the department and the conduct of its officers. In every instance where serious blame had been sheeted home to any officer of the department, that officer had been dismissed. At Guildford, the late station master, who had been found blameable in a certain case, was dealt with in this way; also at Spencer's Brook and the Clackline, the same course had been taken. In every instance where it had been proved that officers had been careless, and were responsible for any serious consequences, they were dismissed the service. As to the motion itself, he had no objection to laying the papers on the table; but he thought this course would hardly be necessary, after the statement he had made as to the steps which had been taken and were now being taken for ascertaining the causes of accidents, and taking measures for preventing their recurrence. It would be his duty, under the Act, to report to His Excellency the Governor the result of the inquiry that was to be commenced on the next day; and he was quite willing that, in order to make the investigation a thorough one, reporters for the Press might be present to take evidence. The department did not wish to hold this inquiry in a hole-and-corner manner, but was willing to let the public see that it was the intention of the Government to investigate this accident thoroughly, and to sheet home the blame, if any, to those who might be responsible, and who would be punished, if necessary. He hoped the result of the inquiry would be to prevent the recurrence of such accidents, and he thought that, if the information he had promised were given, this would be all that the hon. member desired to obtain by his motion.

MR. RANDELL said the statement just made by the Commissioner, that every effort was being made to prevent the recurrence of accidents such as he had referred to, would be satisfactory to the House and the public. There had been accidents prior to the period covered by his motion--for instance, that at the Perth railway station, and also another accident on the railway somewhere near Mackie Street, which was very nearly a serious accident, and tended to create alarm in the public mind. So far as he knew, the results of any decision arrived at by the department, in reference to that case, had not been made publicly known. He would be the last one to hint that the department wished to do things secretly; but it was exceedingly desirable that the results, at any rate, of inquiries into accidents should be made publicly known, and in some cases it would be, perhaps, well to publish the evidence, though that must be left to the discretion of those holding the inquiries. He was glad to hear that the Commissioner of Railways had not withheld from the Press any information that it would have been right and proper for him to make known; also that he was willing that reporters should be present at the inquiry which was to be held at the Midland Junction into that very nearly terrible accident. He was glad to hear the Commissioner of Railways was taking steps to provide signalling apparatus and in every way was endeavouring to ensure the safety of the travelling public.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) said there was no necessity to hold an inquiry, except in connection with an accident to a passenger train. In the case of a collision between goods trains, the department was not compelled by law to hold a public inquiry.

MR. ILLINGWORTH said he would like to emphasise the fact that it was very desirable, whenever the department had held an inquiry and found it necessary to dismiss an officer, that the dismissal, and the reason for it, should be made public. The making public of these punishments would have the effect of satisfying the public mind; and, on the other hand, it would react upon the officers still remaining in the service, to their benefit and to the benefit of the public. He would strongly urge that in every case where the Commissioner deemed it necessary to dismiss a man for neglect, the dismissal and the reason for it should be given to the public.

THE PREMIER (Hon. Sir J. Forrest) said he did not think they should go so far as to carry out the suggestion of the member for Nannine, and make public every instance of dismissal. To do such a thing would be rather hard on the

individual, and it was not done by any of the members of that House in their own affairs. He did not think it was necessary in the railway service, unless there had been an accident in which the public were interested. In the case of a railway accident, it was quite reasonable that the public should have all the information with regard to it; and he did not think the Commissioner would have any objection to giving that information. The Act provided that, in the case of accidents to passenger trains, the inquiry should be held in public; but the same condition was not made compulsory in the case of an accident to a goods train. He was quite sure that his friend, the Commissioner, would like his department to live in the light of day, and that everything in connection with it should be made public, whenever publicity was necessary. He thought the holding of these inquiries in public should meet the views of the member for Perth.

Motion, by leave, withdrawn.

FEDERAL COUNCIL REFERENCE BILL.

THIRD READING.

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

CONSTITUTION ACT AMENDMENT BILL.

RECOMMITTAL.

THE SPEAKER said he observed that it was intended to make certain amendments in this Bill, and that no notice whatever had been given of the amendments. It was advisable on all occasions to give notice of amendments, even in committee, and it was especially necessary that this should be done on the report stage of a Bill.

THE PREMIER (Hon. Sir J. Forrest) said there seemed to be nothing against the making of amendments at this stage without notice.

THE SPEAKER said May's "Parliamentary Practice" provided for it.

THE PREMIER (Hon. Sir J. Forrest) said he had no objection to the Bill being deferred, but the amendments were not important, as they made really no alteration in the intention of the Bill. There was a new clause, also several small amendments. The new clause simply reinstated a provision that was in the old Act.

THE SPEAKER said none of the amendments were important, but it was necessary to draw the attention of the House to the fact that notice should be given of amendments, when it was intended to bring them forward.

THE PREMIER (Hon. Sir J. Forrest) said he was in the hands of the Speaker, and would like to know whether the Bill could not be recommitted then, and the consideration of the report be made an order for the following day.

THE SPEAKER said that could be done.

THE PREMIER (Hon. Sir J. Forrest) moved that the Bill be recommitted.

Agreed to.

IN COMMITTEE.

Clause 11 (re-numbered) — Vacancies caused by acceptance of office, etc.:

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, that all the words in sub-clause (2), after the word "and," in line 7, up to and inclusive of the word "publish," in line 10, be struck out, and that the following words be inserted in lieu thereof:—"notified by the Colonial Secretary to the President, Speaker, or Governor, as the case may be, and such appointment and notification it shall be the duty of the Colonial Secretary to publish and give."

Put and passed.

Clause 12 (re-numbered):

THE PREMIER (Hon. Sir J. Forrest) moved, as an amendment, that all the words after the word "Act" be struck out, and that the following words be inserted in lieu thereof:—"Every member of the Legislative Council shall continue to represent in Parliament the province of the same name as the province for which he was elected, but with the boundaries assigned to it by this Act: and, during the present Parliament, every member of the Legislative Assembly shall continue to represent in Parliament the district for which he was elected, as if this Act had not been passed."

Put and passed.

THE PREMIER (Hon. Sir J. Forrest) moved, as a further amendment, that the clause, as amended, be inserted before the present Clause 15.

Put and passed.

New clause:

THE PREMIER (Hon. Sir J. Forrest) moved that the following new clause be added to the Bill, to stand as Clause 15: "Every Act which shall be hereafter passed by the Legislature affecting section 13 or the Fourth Schedule of this Act, or of this section, shall be reserved for the signification of Her Majesty's pleasure thereon."

Put and passed.

Second Schedule:

THE PREMIER (Hon. Sir J. Forrest) moved, as an amendment, that the words "and Burt Street" be inserted after the words "Beaufort Street," in line 5 of the description of East Perth Electoral District.

Put and passed.

THE PREMIER (Hon. Sir J. Forrest) moved, as an amendment, that the word "Beaufort," in lines 11 and 12 of the description of North Perth Electoral District, be struck out, and that the word "Burt" be inserted in lieu thereof.

Put and passed.

THE PREMIER (Hon. Sir J. Forrest) moved, as an amendment, that the words "and Burt Street" be inserted after the words "Beaufort Street," at the end of line 6 of the description of West Perth Electoral District.

Put and passed.

Bill reported, with the further amendments.

MARRIED WOMEN'S PROPERTY ACT AMENDMENT BILL.

SECOND READING.

THE ATTORNEY GENERAL (Hon. S. Burt), in moving the second reading, said: The preamble sets out the object of the Bill. Under section 16 of "The Married Women's Property Act, 1892," a wife is, under the circumstances there mentioned, declared to be liable to criminal proceedings by her husband, and a doubt has arisen as to whether the husband is admissible as a witness against his wife in such criminal proceedings; while section 12 of the same Act declares that in any proceeding under that section, a husband or wife shall be competent to give evidence against each other. My attention was drawn to the matter, and I found they had the same difficulty in England. We recite, in the preamble to this Bill, exactly what the doubt is—whether the evidence of the husband is admissible against the wife, under criminal proceedings mentioned in section 16 of "The Married Women's Property Act, 1892;" and we enact that in any criminal proceeding against a husband or a wife, as authorised by "The Married Women's Property Act, 1892," the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant, shall be compellable to give evidence. I move the second reading of this Bill.

Question—put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Preamble and title—agreed to.

Bill reported without amendment.

Report adopted.

BANKRUPTCY ACT AMENDMENT BILL.

SECOND READING.

MR. MOSS: I rise to move that this Bill be read a second time. The Bill as now drafted proposes to make certain alterations to sections 41 and 46 of "The Bankruptcy Act, 1892." I think the Attorney General will bear me out in saying that, in the way the law stands at present, private arrangements made by debtors for the benefit of their creditors are legal only provided they are unanimously agreed to by the whole of the creditors of a debtor. It frequently happens, where assignments are unanimously agreed to, that trustees and others acting under these deeds find themselves in a peculiar position with regard to those creditors who may come in after the deed is agreed to. One of the results of the law as it stands would be that any trustee, acting under any private assignment and distributing the assets, even supposing he distributed them among the whole of the creditors in existence at the time the deed was made, could be called upon to account to the Official Receiver, under a subsequent bankruptcy, for everything done under the deed. The law is that the trustee under a deed may be treated by creditors who come in afterwards, either as a trespasser or agent; and such a state of affairs will, I think, lead to a great amount of complication.

It is not to the best interest of the commercial community that a man acting in good faith under one of these deeds should be liable to be treated in the manner I have indicated. The Bill provides that this period of relation back should be reduced in respect of transactions which take place under one of these deeds, provided it is registered in the manner I shall presently refer to, from a period of twelve to three months. The present Act is a copy, with certain alterations to suit the requirements of this country, of the English Act of 1883; and in the Act of 1883 in England this relation back only remained for a period of three months. I do not know whether it was a mistake, but in the 1892 Act, this period of relation back extends for a period of twelve months. Under the present Bill, this House is asked to alter this period of twelve months to exactly the same period as it is in England, so that this period of relation back shall be restricted to three months. Clause 16 of the Bill also provides, in respect of all other transactions, that the period of twelve months shall be reduced to six months, so that the public may have every notice of these transactions. It is provided that every deed of arrangement made outside of the Bankruptcy Act shall be registered in the same way that a bill of sale is registered. Section 4 provides for a period in which registration is to take place, and the periods are the same as defined by law with regard to bills of sale. The provisions set forth in section 17, which explains the meaning of the words "Contemporaneous advance," practically include the whole of the amendments that the House is asked to pass. I think the Attorney General will agree that, according to section 43 of the Act, any bill of sale, unless it is security for money actually advanced at the time, or the actual money value of goods sold and delivered at the time of the giving of the bill of sale, will not hold water in the event of a debtor becoming bankrupt within six months; and the law, as laid down in section 46 of the Act, frequently gives rise to hardship. The effect of that section is to shut out persons from being able to obtain a security for a past advance, and all are agreed on that; but surely it was never intended that a debtor who obtained, say, a bank guarantee, should be precluded for six months from obtaining a valid security. It is with the object of getting over the anomaly which exists at present that section 17 has been introduced. It may be right for me to hint to members that, if the second reading of this Bill is agreed to, it is my intention to table a number of amendments to the Bill as it now stands. The Chambers of Commerce of Perth and Fremantle have considered the matter, and they have agreed that there should be some means of binding a dissentient minority. I know, from my experience of the working of the Bankruptcy Act, that persons have been obliged to go into the Bankruptcy Court because of the action of a few creditors; with the result that the estate has been put to great expense, and delay has taken place on realisation. I know the Attorney General will probably not agree with all I am saying in the matter on which I am addressing the House; but cases have come under my own notice that justify me in making the remarks I do. At the present time, a scheme of arrangement can be agreed to by a majority in number and three-fourths in value of the creditors; but I propose that we should say that three-fourths in number and five-sixths in value can agree to a private arrangement, and bind dissentient creditors. The Bill as already drafted will operate in a beneficial manner in reducing the period of twelve months to three; and I have much pleasure in moving that the Bill be read a second time.

THE ATTORNEY GENERAL (Hon. S. Burt): I have looked into this Bill, and I think it will be a useful measure, and relieve somewhat the hardships of the law as it is at present with regard to the period of relating back. That period of six months is mentioned in our Act because we decided to keep to what had been the law in the colony for many years, instead of altering it to what the English law was in 1883. I see no reason why the amendments proposed by the hon. member for North Fremantle should not be made; and, on the other points he has so ably put before the House, I quite agree with him, and trust the House will see fit to pass the Bill.

MR. RANDELL: I rise principally to suggest that we fix a late date, say a fortnight hence, for going into committee on this Bill. There has been considerable dissatisfaction in the mercantile community and among the legal profession with regard to the present working of the Bankruptcy Act; and while the hon. member for North Fremantle gives some suggestions to remove these difficulties, he has indicated one point especially upon which complaint has been made, and that is, that it is not open for the majority of creditors in number and value to make these private arrangements. But I see no reason why deeds of assignment should not be entered into and made legally binding. Complaints have been made as to the cumbersomeness and expensiveness of the present Act; and it has been thought by some that it would be better to introduce a new Act altogether, like that in South Australia, which has been described as being the best, the easiest to work, and the most equitable to creditors, existing in the Australian colonies. I know the complaint was made, when the new Act was brought into operation, that compositions were entered into and fraud was perpetrated; but I do not know that the State has a right to over-rule the wishes of the majority of the creditors. The working of the Act has not been satisfactory, either to creditors or to the legal profession; but I am glad to see that the amendments proposed by the hon. member for North Fremantle will to some extent remove the complaints which are made. I do think it is desirable that arrangements or assignments should be made legal, even if not agreed to by the whole of the creditors; because it is easy to see that, if one creditor makes himself obnoxious, he may prevent the carrying out of a scheme which the other creditors have agreed to, and so cause expense and delay, and perhaps swallow up the whole estate. One other matter I would mention is that I think the English Act, of which this is almost a reprint, contemplated dealing with larger estates than come before the court here generally.

MR. WOOD: We should be very careful in dealing with the Act, and especially with private arrangements, as very often they are of a fraudulent nature; and we should be very careful to see there are no preferential creditors. These private arrangements have often led to fraud in every direction, because two or three get paid in full, whereas other creditors come in for the composition offered; so I think provision should be made for strict examination into each case. I hope the Attorney General, or some other legal member, will see that this is properly attended to. I think an amendment of the Act is very necessary, but we ought to see that the very fullest investigation is provided for as against a defaulting debtor.

MR. JAMES: Those coming before the House with any measure having for its object the amendment of the present bankruptcy law can be sure of a hearty welcome, both from members of this House and from the community, as everyone recognises that the present Bankruptcy Act is not suitable for this colony. I shall be well within the mark when I say the only person who admires it altogether is the Attorney General himself; but when he finds men with large business experience, and not full of fads, as he calls them, like the hon. member for East Perth, expressing that opinion on it, he ought to think the proposed amendment is worthy of consideration. I believe, so far as the State is concerned, it has only to see that trading is carried on honestly, and that the administration of an estate should be outside of the Government; as the experience is that when an estate has been administered by the Government it has been scandalously mismanaged, and the creditors never get so much out of an estate as when they manage it themselves. The persons who can best administer an estate are the creditors, as being the men most interested. There may be dangers in connection with any Act which gives power to a majority to bind a minority; but members must not forget that the majority has that power now to a certain extent, as a composition can be carried by a certain majority, even in the Bankruptcy Court. A majority of five-sixths in value and three-fourths in number should be a sufficient guarantee. I understand it is intended that a provision shall be inserted by which, if an assignment is agreed to by this majority in value and in number, they will have to obtain a de-

claration from the court, and then creditors wishing to oppose it can do so. Members will know of cases where a majority of the creditors in number and value, having agreed to the distribution of an estate among themselves, and there being one or two dissentients, these latter really levy blackmail on the majority; and we ought as far as possible to endeavour to stop that.

MR. R. F. SHOLL: I quite agree with the hon. member for North Fremantle, that it would be better to allow creditors to administer estates if it were not for the bogus creditors, who have been known to out-number the genuine creditors in the appointment of a trustee. I have known more than one man go bankrupt who has been able to pay 20s. in the £; and, by arranging with fictitious creditors, such bankrupts have come through their insolvency as fairly wealthy men, after paying something like 2s. 6d. in the £. In passing any amendment of the bankruptcy law, it behoves the House to see that such a state of things does not occur again, although of course it is, I should think, the desire of everyone that estates should be administered to the best advantage of those concerned, and that legitimate creditors should be able to appoint their own trustees; but I am afraid that, if we alter the Act, we shall be reverting to the old state of things that prevailed before the present law came into force, and which permitted, as I have said, fraudulent practices being resorted to in order to defeat the creditors of an estate.

MR. GEORGE: From my experience of the operation of the bankruptcy law in England, I have little reason to hope that the amendments of the Act which are proposed by the hon. member for North Fremantle will enable creditors to obtain a fair distribution of the assets of estates. The best plan, in my opinion, would be to place the realisation in the hands of a practical man; but I have little hope that you can make men honest by Act of Parliament. As to a few creditors causing an estate to be swallowed up by placing it in the Bankruptcy Court instead of accepting a composition, I can speak from my own experience, for in a case in which we were offered 5s. in the £, the result of going into bankruptcy is that we shall not get five farthings.

Question put and passed.
Bill read a second time.

IN COMMITTEE.

MR. MOSS said he desired to postpone the consideration of the clauses until the amendments, which he desired to introduce, could be printed. He moved, that the Bill be re-printed with amendments (handed in), and that the same be agreed to *pro formâ*.

THE ATTORNEY GENERAL (Hon. S. Burt) said he desired to inform the House that the Government would strenuously oppose anything like a return to the old Bankruptcy Act, under which great abuses were complained of, as the pages of *Hansard* would show. As the result of the abuses which had grown up under the old law, which permitted of private compositions, a demand had been made for the adoption of the English Act; and, in the interests of the mercantile community, he should deem it to be his duty to uphold the system of the estates of bankrupts being placed in the hands of the Official Receiver, which prevented men who were able to pay 20s. in the £ from being released from their liabilities by getting up dummy meetings of creditors, which might be attended only by their clerk holding a bundle of proxies. At these meetings, a composition was perhaps made for the payment of 2s. 6d. in the pound, which often meant that the debtor paid nothing at all. Since he (the Attorney General) had been in the House he had had to tell hon. members three times that every five years there would be a desire for a change in the bankruptcy law—first in the direction of placing the estates of bankrupts in the hands of the court, and then that creditors should be allowed to administer them themselves. What the hon. member for the Murray said was quite true—it would be impossible to get a bankruptcy law that would satisfy everyone, both the debtor and the creditor. There never was such a thing in the world. The same thing had occurred in England, namely, that after affairs in bankruptcy had been handed over to the court, the people wanted to go back to having power to make private compositions. But creditors would be foolish to allow themselves to be led astray by going back to the old system,

because they never did manage things in cases of insolvency. The only people who did manage them were the professional trustees. The creditors in general would allow the debtor to agree to pay 2s. 6d. in the £, and let him go away with 17s. 6d. in his pocket. At the present time there were very few cases of bankruptcy, because if a man went bankrupt he had to go through the mill and answer questions as to what he had done with the property, the possession of which had induced his creditors to trust him; and he did not like that if he had anything to conceal. The Bankruptcy Court swept away all the little dodges of doing away with property, that came into vogue when creditors dealt with estates, and when proxies could be got to represent the creditors, permitting of transactions that would not bear the light. There was also the advantage, under the present system, that the Official Receiver pursued men who had improperly got hold of property, and they were made to disgorge it; but this was seldom or never done by private creditors. The only thing that could be said against the present law, as to putting estates into the Bankruptcy Court, was that the proceedings were a little expensive; and it might be a question as to whether the fees might not be reduced and a charge made upon the general revenue to make up the deficiency. If this were done, he did not think there would be much to complain of in the present Bankruptcy Act. If the trading community wanted to go back to the old system, he should warn them of the dangers of that course, and oppose the alteration to the utmost extent of his power, because he had seen so much of the abuses to which it gave rise. In one large estate, in which a bank held mortgaged property, the bank voted for accepting a composition of 2s. 6d. in the pound. Why? Because as soon as the debtor was released, he bought the mortgaged property with the money of his creditors. This was the kind of thing that was done when proxy votes of three-fourths of the creditors of an estate were accepted and a friendly trustee was appointed; therefore he warned the mercantile community of what they would be doing if they interfered too much with the Bankruptcy Act.

MR. MOSS said the amendments which he intended to propose would not be anything like a return to the old system which the Attorney General opposed so strongly. All he contemplated was to allow a very large majority of the creditors of an estate to keep it out of the Bankruptcy Court, if they desired to do so. It might be supposed, from what the hon. member for the Gascoyne and the Attorney General said, that there was no such thing as fictitious creditors under the present law; but if people chose to conspire and to commit perjury, there was nothing to prevent them from wrongfully getting a share of the property of an estate. He did not propose to interfere with the present law as far as proxies were concerned, but to add safeguards to the law in accordance with the views of the Attorney General. When his amendments came before the committee, hon. members would see that they protected creditors and would be of advantage to the commercial community.

Question put and passed.

Bill reported with amendments (as agreed to *pro formâ*).

Ordered that the Bill be re-printed.

STATUTORY DECLARATIONS BILL.

SECOND READING.

THE ATTORNEY GENERAL (Hon. S. Burt): I beg to move the second reading of this Bill. It is a very simple Bill, the object of it being to facilitate the taking of statutory declarations outside large centres of population. The Bill provides that every warden of a goldfield shall, by virtue of his appointment and during his tenure of office, be a justice of the peace for his district, and he will therefore be competent to take statutory declarations and sit in a Court of Petty Sessions. Under this Bill clerks of such courts are empowered, in the absence of a magistrate, to administer oaths and take affirmations and issue summonses. The power of administering oaths and taking affirmations is also given to the clerk of a Local Court, and in a Warden's Court to the Mining Registrar. As I have said, the Bill is designed to get over a difficulty in a case in which there may be no magistrate residing within a distance of three miles, and to enable business to proceed with-

out delay. I do not think there is any difficulty in allowing these people to administer these oaths. Supposing that there is any virtue in the taking of an oath—which I am not quite prepared to recognise—I think it makes very little difference as to whether the oath is taken before a justice of the peace or his clerk. I think the provision that is made in the Bill is a very useful one, and I ask the House to read the Bill a second time.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned at 6·32 o'clock, p.m., until next day.

Legislative Council.

Wednesday, 19th August, 1896.

Orphanages and Missions: amounts paid to—Crown Suits Bill: President's ruling *re*—Powers of Attorney Bill: Report of Select Committee—Western Australian Turf Club Bill: second reading; committee—Adoption of Children Bill: third reading—Municipal Institutions Act Amendment Bill: committee—Agricultural Lands Purchase Bill: committee—Construction of bridges over railway line in Perth—Federal Council Reference Bill: first reading—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the chair at 4·30 o'clock, p.m.

ORPHANAGES AND MISSIONS—AMOUNTS PAID TO.

THE HON. R. G. BURGES asked the Minister of Mines:—

1. What amount was paid annually to the different Orphanages, Native and Half-caste Missions, etc.

2. If the Education department made periodical inspections of the schools in connection with the said institutions.

3. If not, why not.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom) replied, as follows:—

1. None. Being treated hitherto as Assisted schools, the grant ceased at end of 1895.

2. No. It was the practice to do so up to the end of 1895.

3. It is not done now, because the department has no authority to do so.

CROWN SUITS BILL—RULING OF PRESIDENT *RE*.

THE HON. J. W. HACKETT asked the President:—If he had seen some published correspondence between Sir James G. Lee Steere, Speaker of the Legislative Assembly, and Sir Francis T. Palgrave, clerk of the House of Commons, in connection with the action taken by this House in reference to the Crown Suits Bill last session; and if, in consequence, the President had modified the views set out in his ruling relating to the action of the Council above alluded to.

THE PRESIDENT (Hon. Sir G. Shenton) replied, as follows:—

I may state that I have read the published correspondence between the Speaker and Sir Francis T. Palgrave, in reference to the dispute between the two Houses over the Crown Suits Bill. After careful consideration of the said correspondence I see no reason for altering or amending my ruling of November 5, 1894, and on which I based my further ruling of October 3, 1895.

I note the Speaker, in his letter to Sir Francis T. Palgrave, again refers to Standing Order No. 1, but, on the other hand, I maintain this Order can only come into force when the question under dispute is not already provided for. To state the matter shortly, the Crown Suits Bill did not, in my opinion, come under the provisions of Clause 23 of the Amending Constitution Act. Therefore the Council had equal right with the Assembly to amend the Bill in any way they deemed desirable. I think it is to be regretted that the Speaker, when communicating with Sir Francis T. Palgrave, did not send him our Amending Constitution Act, calling his attention to Clause 23, and inform him of the following facts:—

1. That the Crown Suits Bill did not come under the provisions of Clause 23.