# Legislative Council,

*Tuesday, 6th November, 1923.*



The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

## BILL—INDUSTRIES ASSISTANCE ACT CONTINUANCE.

Read a third time and passed.

## BILL—PINJARRA-DWARDA RAILWAY EXTENSION ACT AMENDMENT.

*Personal Explanation.*

Hon. H. Stewart: I supported the second reading of the Bill and said I would support also Mr. Greig's motion for a select committee. In the course of my second reading speech I read three extracts from the files. One was a report of a deputation to the Premier about the construction of the line. Following on the tea adjournment I made a personal explanation of what had transpired during that adjournment. Later my attention was directed to a paragraph in the "Great Southern Leader," a Narrogin newspaper. I take this opportunity of answering it by way of personal explanation. The paragraph read as follows:—

> Mr. Hector Stewart, M.L.C., shows his hand at last. We have previously commented in these columns on the silence of Mr. Stewart, M.L.C., in regard to the Narrogin-Dwarda railway, and on his absence without apology from each of the deputations on the subject.

As I do not read that journal I did not know that it had commented. Since this question became a controversial subject between Mr. Greig, the immediate representative of that portion of the province, and Mr. E. B. Johnston, the Assembly representative, I, having no particular knowledge of the question, have attended no deputations for or against the railway, but have awaited the fullest information. During my six years of public life I have always been willing to declare my attitude on any public question. It requires nothing more than an intimation to me for any of my constituents to learn exactly where I stand on any public question. The paragraph continues:—

> The last "Hansard" to hand proves that Mr. Stewart has at last shown his hand in strongly opposing the line and supporting Mr. Greig's motion for a select committee. Mr. Stewart's opposition was of such a nature that he subsequently repented what he had said and, in a personal explanation recorded in "Hansard," adopted the unusual course of securing the excision of some of his remarks from "Hansard."

That is an absolute misrepresentation of what was an honourable action that any member would have taken. In other words, I supported the Bill and gave my reasons for doing so. I voiced no opposition to the Bill. I supported the appointment of the select committee. During the tea adjournment, as already recorded in "Hansard," I learned from Mr. Greig that one of the documents I had read out did not give a correct interpretation of the Premier's reply to the deputation, since it made it appear that the Premier's statements applied to the Narrogin-Dwarda railway, whereas they really applied to a proposed new line from Dwarda to Armadale. It is only in the light of the explanation made by Mr. Greig that the Premier's final answer to the question "When would the Narrogin-Dwarda railway be built?" is really comprehensible. The explanation of my colleague led me to the conclusion that, inadvertently, I had been made the instrument for placing an unfair interpretation on the Premier's words. Consequently I informed the House of this, and made the amende honourable, in which I had the full approval of the House. I repented nothing. As an honourable man, finding I had unwittingly misinterpreted the Premier's words, I made the explanation to the House. Not to have done so would have been less than honourable. In the light of this explanation it will be seen that the deductions in that newspaper paragraph are unwarranted and not in accordance with the facts as disclosed in the "Hansard" report.

*Select Committee's Report.*

Hon. J. A. GREIG (South-East) [4.45]: I move—

*That the report of the Select Committee be adopted.*

The Select Committee had a difficult problem to deal with. This line was passed by both Houses of Parliament some nine years ago, but has been in abeyance ever since. It was promised to the people. When the Select Committee made investigations, it formed the opinion that it could not, at the present juncture, recommend the construction of the line as a payable proposition. I think I voice the opinion of members of the Committee when I say they would not have recommended the construction of any part of the line had it not been for the definite promise given to the returned soldiers at Noombling, an estate that was purchased about three years ago. Parliament has made it a rule on all occasions, adopted by the Government as well, to give preference to returned soldiers. This estate at Noombling was repurchased and soldiers were placed upon it. That is why we have recommended the construction of about

12 miles of railway to serve them. When we were inspecting the country, the line was not surveyed. When we measured it on the map we considered the distance would be about 12 miles. The actual survey, however, shows it to be about 14 miles. The survey lengthened the line about two miles more than we anticipated when the deviation in the route was being made to get the necessary grade. The deviation stated in the Bill is certainly an improvement on the old survey. I take the credit for being the one who has brought about that deviation. Had I not raised an objection 12 months ago to the old survey the line would have been built upon it, and no Bill would have been introduced for its deviation. I cannot see that the additional expense of over £100,000 to complete the railway from Noombling to Narrogin is warranted at present. All the people between Noombling and the Great Southern railway, a distance of about 22 miles, cannot be further than 11 miles from a railway. Mr. Carroll, in his minority report, implies that if the line was linked up with the Great Southern, it would pay. No doubt he will explain his reason for coming to this conclusion.

Hon. T. Moore: Is the line not paying now?

Hon. J. A. GREIG: Not at present. According to the reports, development has not taken place that was anticipated when the line was constructed from the timber country to the agricultural land.

Hon. T. Moore: Surely the line from Pinjarra to Dwarda is paying!

Hon. J. A. GREIG: I have not ascertained whether the timber portion of it is paying.

Hon. T. Moore: I should imagine that would pay for the whole line.

Hon. J. A. GREIG: I think not. The extension to Narrogin would not pay. Four trains a week will bring to Dwarda all that the people there require, and ten a year will take away all they produce.

Hon. J. Nicholson: What is the size of the train load?

Hon. J. A. GREIG: It is a 150 ton train, the smallest load in the State.

Hon. J. Nicholson: In the world, I should say.

Hon. J. A. GREIG: On the Collie-Narrogin line the grade is 1 in 80, and I believe the train loads are 500 tons. I think that includes tare. On the other line, 150 tons of loading is the most that can be drawn. Four trains a year take away all that can be produced at Boddington. It was thought this place would go ahead wonderfully when it had railway facilities. It taps the Wandering district. Dwarda is at the head of the line. We do not say that the extension we recommend will pay, but the definite promise given to the returned soldiers must be adhered to. I am of opinion the time is not far distant when a through line from Narrogin to Armadale will have to be constructed. The junction should be at Noombling, proceeding in a north-westerly direction to Armadale. This would open up a great deal of unserved country west of Pingelly and Popanyinning. There is another reason why the linking up with the Great Southern at present will be detrimental to Western Australia. It would shorten the distance, if the line were built on the deviation, by 14 miles. It would have been 17 miles if it had been built on the old survey. This would be a loss of 14 miles to the Railway Department. Under the regulations they could only charge freight on the shortest route. The Commissioner of Railways said he would not send stuff to Narrogin by the shortest route, but would send it round by Spencer's Brook over the present route. When Mr. Short was Commissioner for Railways he intimated to the member for Williams-Narrogin (Mr. Johnston), that if this line were built he must be allowed to charge freight as on the route by which the stuff was sent. It was definitely stated that if the line were reduced in length, the freights and fares would not be reduced as if passengers and goods were sent over the shortest distance to Perth. Mr. Johnston pledged his constituents that this would be honourably adhered to. This was a wrong attitude for any member to take up, to pledge himself and his constituents that they would not ask for freight to be charged along the shortest route. Those constituents are not the only people affected. The reduction would affect people all the way from Narrogin to Albany, and along the spur lines. If the line is linked up, there will be a loss to the working railways. I feel that my constituents from Narrogin to Albany will not be satisfied to pay over the greater distance. They will claim justice and say it is not fair that they should be asked to pay on the extra distance in order to give a competitive town on the Great Southern the advantage of having a line built to that place. If there was to be no reduction in freight, why did the Narrogin people want a line there? They can send their stuff over the old line. I can see no material reason for linking up the line if it is not a question of reduced fares and freights.

Hon. E. H. Harris: It may be a matter of interest to the town.

Hon. J. A. GREIG: It would be of advantage to the town while the line was being built, and might be of advantage later if one or two additional railway men lived there. In the interests of Western Australia I cannot see any justification for linking up the line and incurring all this expense. There are many other places that require to be linked up. Newdegate requires 34 miles of railway to connect it with Lake Grace. There are about 150 farmers there working on good wheat growing land, and producing big crops. The line would be payable from the date of its construction. At Kalgarin, 20 miles from Kondinin, there is a settlement on some of the finest wheat growing land in the State, not yet served by railway. I am opposing this line in the interests of the State and the finances. I am trying to help the Government to be economical. I have nothing against the people along the route of the line, for they are some of the finest settlers in the State.

The land, however, is not of the best. The people are hard workers and are stickers. It would have been better if some of them had sold their farms years ago and left the district, but they have stuck to their holdings against all odds. From the point of view of assisting the Government, I cannot recommend the construction of the line.

Hon. H. SEDDON: I second the motion, pro forma.

Hon. A. BURVILL (South-East) [4.55]: I move an amendment—

*That the dissent to the report be adopted.*

This railway was passed, with a number of others, in 1914. There are quite a number railways which should be built that were not passed at that time. Other members will know of railways that might with advantage have been passed before this one. Other railways that were passed were built, but there was a motion put through this House against this railway. In another Chamber certain motions were also moved. The grievance there appeared to be that a deviation was wanted. Mr. Greig has stated that but for his motion this deviation Bill would not have been brought forward. In looking through the files I found a letter dated 6th July, 1922, sent to the Acting Premier by Mr. Hickmott, the member for Pingelly. The letter reads—

> I understand that the Hon. the Minister for Works proposes to make a start with the Dwarda-Narrogin railway construction. I wish to point out the general opinion of the people in the Noombling district is that the line should be extended up the Hotham River on the south side for about nine or ten miles, and then proceed to Narrogin. By this slight alteration all the returned men settled on the estate purchased from Mr. M. Brown would be served. Besides, when the line is constructed from Noombling to connect with the line from Brookton to Armadale, it would serve all the people in the Taylor's Well and Hastings district, who are located midway between Pingelly and Wandering, and are at present from 15 to 18 miles from a railway. You will see by the small plan that this would be the shortest, cheapest and easiest way to give all the people facilities for getting railway connection, and I think fall in with the report of the last Advisory Board. I hope that Cabinet will have this matter carefully looked into.

As a result of this letter, and probably of the motion passed in this House, a Bill was passed in another place and submitted to this Chamber. The only alteration in the old Bill was that the railway was allowed to deviate two miles on either side of the survey. The Bill before the House permits a deviation of five miles on the north side. The Bill was passed in another place and it was brought to this Chamber. On the files being tabled here, the appointment of a select committee was requested by Mr. Greig. I was not prepared to vote for the deviation until I was able to read the report of the select committee. I have carefully looked through the evidence tendered to the committee, and it is clear that all the settlers along the deviation that is required to Noombling, and thence into Narrogin, as well as those located along the original route, had no objection to the proposed railway. The objection to the Bill came from those who desired the line to go to Codjatotine and thence to connect up with the main line at Popanyinning. All the witnesses desired to see the line built through to the main railway system, and were totally opposed to dead ends. The evidence shows that William Henry Price, a farmer, was asked the following question:—

> You are convinced that, no matter what happens regarding the Codjatotine northwards railway, it is essential that the line must be connected with the Great Southern railway?

To that question the witness replied: "Yes." William Gilbertson, who was in favour of the same route, was asked:—

> You do not suggest that the line you mention should stop at a dead end?

To that the witness replied: "No." Francis Wake, a farmer at Popanyinning, gave evidence, in the course of which he said:—

> One reason why I advocate the line going through and linking up with the Great Southern railway at Popanyinning is that it will form a connection with the main railway system of the State. No one would advocate a line to a dead end.

In answer to the question "In advocating that the line should junction with the Great Southern railway and not stop at Codjatotine, you are opposed to a dead end?" the witness said:—

> Yes, it would not be businesslike to terminate the line at a dead end.

Then we come to the evidence of Charles Henry Babbington, the assistant engineer of the Public Works Department. The report of the evidence shows the following:—

> 369. What is the objection to a dead-end such as a line finishing at Dwarda?—The working expenses with a dead-end are very heavy. You cannot move your rolling stock about directly over the system, and there is a tremendous lot of broken time. The expenses are heavy, and allowances have to be paid to the employees staying the night at the dead-end.

Then we come to the evidence of the Commissioner of Railways, Colonel Pope. If hon. members will look at the report of the evidence they will find the following:—

> 378. If that line were extended another 13 miles, what would be the position?—It would be awkward for engine working. We would have to stable men at Dwarda and the next day they would run over the 26 miles, 13 miles out and 13 miles back. We shall have the same difficulty at Bencubbin.

Then again there is the following:—

> 385. What are the chief objections to dead-ends in connection with railways?—

The principal objection to a dead-end is really one of working. There is such a lot of light loading. With a loop you get traffic in both directions and there are greater facilities for working. With a dead-end it is a diminishing traffic. Either you haul in light and return full, or else you haul in full and return light.

386. What is the average loss experienced in connection with dead-ends?—I cannot make an estimate, because so much depends on the different conditions I have mentioned. I referred to this question on page 4 of my last annual report.

387. A dead-end makes a lot of difference in the running of a railway?—Yes.

Hon. J. J. Holmes: There must be a dead-end somewhere!

Hon. A. BURVILL: There is no occasion for a dead-end in connection with the railway under discussion at all. That is the objection by the railway authorities. The objection of Mr. Wake and other settlers, was that if the proposed line were stopped at a dead-end, they would be within 20 miles of their natural market, and yet they could not get there with their produce. Mr. Wake, when advocating that the line should go to Popanyinning, said that if the consideration of the Bill were to result in such a decision there would be 10,000 head of cattle in that area in a short period.

Hon. C. F. Baxter: Where will the cattle come from?

Hon. A. BURVILL: I do not know. Perhaps we could discount the evidence on that point, but if there were 5,000 head, or even 1,000 head, the same difficulty would arise if the line were to stop at a dead-end. If the line were constructed through, it would be possible to get the stock to market. The suggestion as it is, makes the line stop at a dead-end, and that will not satisfy the people there. I have attended some of the stock sales and I know the facilities for railing their stock to markets. It is essential that the railway shall be connected up with the main system, so as to provide the necessary outlet for the stock.

Hon. J. J. Holmes: Do you advocate putting a railway through country which the evidence shows is so infested with poison that it is not possible to travel the stock? What would happen to the 10,000 cows if you took them through that country?

Hon. A. BURVILL: If hon. members look through the evidence, they will find it indicated that the country is not so infested with poison as it has been made to appear. The soldier settlers at Noombling must be given the necessary railway facilities.

Hon. H. Seddon: Is the closest market at Narrogin?

Hon. A. BURVILL: If they have means of access to Narrogin as suggested, then the settlers can get their stock through to Pingelly, Katanning, Narrogin, or elsewhere without the necessity of going right through to Perth. That is the trouble at present.

Hon. J. A. Greig: Pingelly is nearer to those settlers than Narrogin.

Hon. A. BURVILL: Mr. Wake, in his evidence, said that no one would advocate a line to a dead-end, and in saying that it was not businesslike, he supplied the reason for his view. The Commissioner for Railways was asked the following question:

396. What effect will the building of the Narrogin-Dwarda railway have upon the earning capacity of the railways from Narrogin and southwards of Narrogin?

and to that he replied:

I estimate a loss of approximately £16,000 a year, unless provision is made for traffic to be charged by the route it goes. It will decrease the theoretical distance between Perth and south of Narrogin by 17 miles, and between Fremantle and south of Narrogin by 28 miles. The traffic will necessarily continue to go via Spencer's Brook.

In the course of his remarks, Mr. Greig said that the deviation will alter that distance somewhat. Again, the Commissioner's evidence discloses the following:

397. Are you aware that when Mr. J. T. Short was Commissioner he suggested that that if a line were built from Dwarda to Narrogin he would not reduce his rates of freights or fares on the shortened distance to Perth, and that Mr. Johnston, member for Williams-Narrogin, said he could pledge his constituents and himself that this would be honourably adhered to?—

To that the Commissioner replied:

I was not aware of that. If that is the case, it would take away a certain amount of the objection I have to the construction of the line, apart from the abstract objection I have to the construction of any line. Already, in my opinion, we have too great a mileage of railways in the State for our population.

I would draw the attention of the Leader of the House to this particular point to which the Commissioner of Railways has taken exception. If he could overcome that difficulty it would take away the only real solid objection to the line linking up with the Great Southern railway. Where the line will junction with the Great Southern railway is a matter for the Government to decide. In his dissenting report, Mr. Carroll does not say where the line is to link up with the Great Southern railway. The objection raised by the Commissioner of Railways to the junction at Popanyinning was that it would mean another depôt. That is a matter, however, for the railway advisers to the Government.

Hon. J. J. Holmes: What does Mr. Wake say on that point?

Hon. A. BURVILL: He wants the line to connect up with the Great Southern railway at Popanyinning and says that it would not be businesslike to leave it at a dead-end.

Hon. J. J. Holmes: In the report of the evidence Mr. Wake is said to be a farmer. Do you quote him as a railway expert?

Hon. A. BURVILL: No, but as a farmer who wants the line to be built through to

Codjatotine. The evidence shows that there is not one man who does not want the line connected up with the Great Southern railway. I am aware that the Commissioner of Railways is against further railways. This line has been passed and the settlers have been living on the strength of the promise of railway construction to within reasonable distance of their holdings. It would be an injustice to build the line at any great distance from the route originally authorised. The settlers should have railway facilities so as to link them up with their markets. The views of the Commissioner of Railways will always be antagonistic to the policy of the Country Party. To that extent his views are against the policy of the Government who want to open up new land. The Commissioner does not want any new railways. We must look at his evidence in the light of the fact that he has to make the railways pay.

Hon. A. J. H. Saw: That is a desirable object.

Hon. A. BURVILL: The task of opening up new country means that the transport costs are tremendously heavy. Someone has to pay in the beginning. The platform of the Country Party provides for the construction of railways to all settled areas, and that further extensions shall precede settlement.

Hon. E. H. Harris: The Commissioner of Railways is not a supporter of your platform.

Hon. A. BURVILL: I am aware of that. It cannot be expected that the early settlers will be able to bear the heavy cost of transport at the outset, nor should it be expected that they will have to make good before a railway could be built to give them access to their markets. That may have been all right in the past, but it has meant very slow settlement of the State. There should be no injustice done to these settlers nor should they be asked to be satisfied with the spur line which has been suggested. It is also a plank of the Country Party's platform that we favour decentralisation and the provision of means of access to the nearest port and markets. That is exactly what those settlers will not get.

Hon. J. J. Holmes: It will mean centralisation at Narrogin.

Hon. A. BURVILL: Of course it will benefit Narrogin, but we cannot help that. Already there is a depot at Narrogin, and it is only natural that the Commissioner of Railways does not want to have another depot at Popanyinning, 20 or 30 miles away. Still, that is a matter for the technical officers.

Hon. W. CARROLL (East) [5.17]: I wish to give the House as clearly and concisely as possible some idea of the state of affairs as I found it. When I was appointed a member of the select committee, though the file had been laid on the Table of the House, I refused to look at it or to know anything about the question; I determined to judge from my own observations on the spot. Though I dissented from the conclusions of my two colleagues on the select committee, during the time we were travelling through the district, there was no ill feeling whatever. Though we did not agree, that does not lead me to say they have not viewed the question in what they believe to be the best light for the State. At the same time I travelled through the same district and heard the same evidence and I arrived at a different conclusion. I feel sure they give me credit for being quite honest in my finding, just as I regard their finding as an honest one. We first went to Dwarda and met quite a large number of people. Let me point out that the number of witnesses examined was no criterion of the number of farmers that attended in readiness to give evidence, or of the interest taken in the proceedings. The chairman announced—and I agreed with him—that the select committee's time was limited, and he did not want a large number of witnesses appearing merely to support the evidence someone else had given. He said, "If you agree with the evidence taken, it is not necessary to say the same thing over again. If you disagree or have any fresh evidence to tender, we shall be pleased to hear it." It is necessary to make this explanation to avoid any misconception as to the interest taken in the question by the people affected. The very keenest interest was taken. The Bill proposes a deviation of a railway already authorised, so that strictly speaking what we had to inquire into was whether the people were in favour of the deviation or not. Anyone who reads the evidence can come to no other conclusion than that the deviation would be an improvement on the route originally surveyed.

Hon. J. M. Macfarlane: To Noombling or Codjatotine?

Hon. W. CARROLL: I refer to the deviation proposed by the Bill. As Codjatotine has been mentioned, let me say I had an idea that the proposed railway from Dwarda to Codjatotine was an alternative proposal to the Dwarda-Narrogin line, with a deviation towards the Noombling estate. Judging by the evidence we received, such is not the case. It was never an alternative to the proposal contained in the Bill. The report of the departmental officers on the file shows that the Dwarda to Codjatotine project was entirely different from the proposal in the Bill. Even those who favoured the Dwarda-Codjatotine route did not favour it as a line from Dwarda to Codjatotine. They regarded it as merely a portion of a through line to junction with the Great Southern line. There was no evidence at all that favoured the line remaining at a dead end. The only difference of opinion was where the junction should take place. At Dwarda we received evidence from representatives of the Wandering and Marradong Road Boards. All the people we met at Dwarda favoured the line going to Narrogin. That of course also applied to the evidence taken at Narrogin, and it was also the opinion of the people at 14-Mile Brook. The evidence we took at Codjatotine was some-

what mixed, but anyone who studies it will realise that the majority of the people there favoured the line going to Narrogin. I am not advocating one thing or another; I am relating what we saw and found so that the House may form its own opinion. The bulk of the evidence received at Codjatotine favoured a line along the proposed deviation into Narrogin; the balance favoured a line going to Codjatotine and then in to Popanyinning, but whether the witnesses favoured Narrogin or Popanyinning, not a single one favoured the line remaining at a dead end. After looking at the proposition from every point of view, the conclusion I came to was that if we were not prepared to build the line to junction with the Great Southern railway, we should spend no money at all upon it. If we build a section of the line, we shall be giving to the settlers at Noombling and 14-mile Brook a railway in the letter and denying it to them in the spirit. To construct a railway away back from where they want to go will be of no advantage at all to them. The whole of the people in that district want to get to the Great Southern railway. That is where their markets are; the Agricultural Bank, the Industries Assistance Board, and the Soldier Settlement business is transacted there, and whether we give them a railway to any other centre or not, they still have to go there in order to transact their business. They have a butter factory. I did not mention this in my report because, though it means a big thing to some of the settlers, it is not a big thing from the point of view of the railway or the State. I cannot shut my eyes to the fact that railways are built, or ought to be built, for the development of the country and not primarily with the object of securing interest on the cost of construction. That should be a secondary consideration. The main object is to develop the country; let the payment come later on. The Commissioner of Railways said he was opposed to such railways on principle, and that if he had a smaller mileage he would be able to give a better service. He had an idea that if he had a railway system running merely between Perth and Fremantle, he would get the same volume of traffic, having no regard to the development in the back country that of course increases the traffic on the smaller section of railway. I have a certain amount of sympathy with the Commissioner. He is there to make the railways pay. He is not concerned with the development of the State. Parliament long since should have devised means whereby certain railways should have been charged up to development purposes, while they were in their initial stages and could not return interest and sinking fund on the money invested. It should not have been beyond the power of Parliament to devise a way out of that difficulty and so relieve the Commissioner of Railways to that extent.

Hon. J. J. Holmes: To what would you charge up the Lake Clifton railway?

Hon. H. Stewart: To misrepresentation.

Hon. W. CARROLL: Had I been in the House at that time I could have answered the question, but, unfortunately for the country, I was not then a member.

Hon. H. Stewart: It did not come before this House.

Hon. W. CARROLL: I admit I have seen better country than that between Dwarda and Narrogin, but the Noombling estate was very much better land than I expected to find it after reading the report of the Royal Commission on Soldier Settlement. I am of opinion it is not bad country, but it was put to a wrong use and money was lost on that account. However, in my opinion this railway, unless it is carried right through, has no possible chance of ever getting anything like revenue. There is no outlet to the east for timber, and timber is one of the big factors on the Pinjarra-Dwarda line. If this proposed line were carried through, there would be such an outlet. As developments take place east of the Great Southern railway, where we may look for them, a certain amount of traffic and revenue will be obtained. At Narrogin we were told a good deal about a possible alternative line when the Great Southern railway becomes overcrowded. There is a possibility that that overcrowding may occur some day. According to the evidence of the Commissioner of Railways, however, it will not occur until the traffic has increased by 500 per cent. We have seen traffic increase on some lines by 100 per cent. in a year, but that is not likely to occur on the Great Southern railway for some time. Viewing the proposed line as a wheat proposition, I have to point out that we need not seriously consider the wheat from territories which would pass through Narrogin. The great bulk of the wheat to-day is quite capable of being hauled to Bunbury, and of being shipped there. Leaving all that aside, we must pay regard to this point, which has all through weighed most heavily on my mind: this proposed railway has been authorised by Parliament. Even if Parliament acted unwisely in passing the Act—and that is not for me to say, though I may have my own opinion on the point—still Parliament acted constitutionally and within its rights. Quite a number of the members in this House to-day were in it when the Act was passed. I fail to see that in the interim anything has happened which would make it less desirable to build the railway. The railway from Collie to Narrogin was constructed before this line was authorised. The Bowelling-Wagin line, which in my estimation does not really affect the present question, was authorised at the same time. Therefore nothing has occurred to alter the circumstances which caused Parliament to authorise the construction of this line. The authorisation practically constitutes a bond as between the settlers in the district and the Government of this State. Paying all due regard to the fact that the Government are now hard up for money, I still consider that it is far better for the present Government, or any other Government, to be bankrupt in pocket than to be bank-

rupt in honour. The failure to build this railway will be an act of repudiation. Now as to the estimated cost of the line. The Assistant Engineer for Railway Construction told us that the estimate was based upon the day labour system. One little thing I saw on the file on the night of the appointment of the select committee was that a certain amount of partial clearing had been carried out along the route. On a total area of 96 acres the trees had been chopped down and stacked ready for burning, and the cost of that work was £890. The select committee had evidence from men long resident in the district and fully conversant with the cost of clearing there that the work is worth 25s. per acre.

Hon. J. J. Holmes: And how much did it cost?

Hon. W. CARROLL: Something like £10 per acre. A certain proportion of the cost was for overhead charges, supervision, and so forth, which would have been slightly reduced if the work had been of greater extent. In my opinion, if this line were built on the contract system—the contractor would not dare to pay the men less than the Government would pay them, and in fact he could not get them for less—it would not cost more than two-thirds of the present estimate. The select committee took evidence at Taylor's Well, near Codjatotine. Undoubtedly, once one gets to Codjatotine and further northwards, one finds better country, though there is some excellent land along the Fourteen Mile Brook between Dwarda and Narrogin. As a whole, however, the country north of Codjatotine is certainly better. The deviation of the line to Codjatotine would not effectively provide those people with railway communication. Only a few of them would be within reasonable distance of the line, and they would regard it as of value to them only in that it would junction with the Great Southern railway. Unquestionably, the proper system would be, after finishing the Narrogin-Dwarda line, to build a line northward from Noombling to Codjatotine and Taylor's Well, eventually to junction with the Brookton-Armadale line. That is the position as I see it. Though I could not see eye to eye with my two colleagues in this matter, I believe them to be thoroughly honest in the views which they have expressed; and I feel certain they give me the same credit. If I have been of assistance in any shape or form to hon. members then the endless trouble I, in common with my colleagues on the select committee went to, will be repaid.

The MINISTER FOR EDUCATION (Hon. J. Ewing—South-West) [5.38]: I congratulate the last speaker on the clear exposition he has given of his view of this matter. I also agree, as all honourable members must, that every member of the select committee has reported entirely in accordance with the evidence as it appealed to him. To my mind, however, the select committee, instead of improving the position, have made it much worse from the point of view of Mr. Greig. I have so often heard that hon. member speak against this railway, that I came to the conclusion the construction of the line was an iniquitous thing from his standpoint. Therefore I anticipated that the evidence to be taken by the select committee would be very different from that which we have before us in this report. A perusal of that report can leave no doubt in the minds of the majority of members that the best thing to be done is to vote against both the majority report and the dissenting report. Although the dissenting report is favourable to the line proposed by the Government, it still leaves the question of terminus in doubt. What we are considering is a Bill not for the construction of a railway, but for the deviation of a railway. The only question before the House is whether the deviation proposed by the Government shall be made as they suggest. The adoption of the majority report would mean that the line would remain at a dead-end at Noombling. The minority report suggests that the line shall go as far as that, but that it shall be within the province of the House to determine where the line shall junction with the Great Southern railway. Mr. Carroll has left no doubt in my mind as to his view. His view is practically what I stated on the second reading of the Bill, that from a railway point of view Narrogin is the right place for the terminus. Indeed, that is shown in the evidence given before the select committee. But Mr. Carroll has also stated, although not in so many words, that the right place to go to is Narrogin, and that to do anything else would be an act of repudiation. That should settle the question so far as the majority of members are concerned. I intend to vote against the majority report and also against the minority report. At the time the select committee was appointed I did not think it was necessary. I held the view that all the evidence was before us already. If there had been evidence in favour of defeating the Government's proposal, I would probably have been able to place before the House much more testimony than is contained in the select committee's report. The land appears to be far better than hon. members were led to believe. The majority report talks of "inferior land badly infested with poison." But hon. members who know that class of country are well aware that thousands upon thousands of acres of poison land have been redeemed and made productive. And why should it not be so in this case? As the railway line extends, so will the poison be eradicated, and the position consequently improved from a traffic point of view. The contention of the Commissioner of Railways appeals to me and must appeal to every member. I refer to the question of the charges he should make. He said in his evidence that that question could be further considered before the line was constructed, and I have no doubt the Government will give it consideration before the work of building the line is actually put in hand. Some definite decision will no doubt be arrived at as regards freight charges from Narrogin or any other portion of the line. I regret that the majority

report is largely a condemnation of country that ought not to be condemned. I travelled across it about 20 years ago, and the impression then made on my mind is the one which I expressed to the House on the second reading of the Bill. It is an impression which has been largely confirmed by these reports. Undoubtedly poison does exist in that district, just as it is found in a large portion of the South-West. But those who had the infested land practically given to them have persevered and have eradicated the poison, and to-day are in possession of prosperous holdings. That will be the case also in this country once the railway has been built. I endorse Mr. Carroll's remarks that there will ultimately be a line to serve Codjatotine and Taylor's Well, and go through to a railway from Brookton to Armadale. That is the line which will open up all the country Mr. Greig is desirous of seeing opened up. Undoubtedly it is good country, but that fact constitutes no reason whatever for advocating that this line shall be laid in the middle of the bush, and that no consideration shall be given to existing settlement. Suppose the line were left as suggested: then it might be many years before it was continued as desired. On the other hand, if the Government's proposal is adopted and the line is taken into Narrogin, the settlers will have communication with their market straight away. That is what the Government desire, and in their opinion it is in the best interests of the State. Over and above that, I, as a member of the Government, assure the people when a promise is given and a Bill is passed by both Houses, and there is no real reason for repudiation, the projected work will be carried out. I appeal to members to vote against the report, on the ground that the deviation as provided for in the Bill will be in the best interests of the State.

Hon. H. STEWART (South-East) [5.50]: I sympathise with the Minister, for the reason that he finds himself in the position of having to vote against the majority and minority reports of the select committee. I supported the appointment of the select committee so that we might have all the information possible placed before us. I have a wide knowledge of the country in question; I have been through it in two different directions since I last spoke on this subject, and have interviewed many of the people who are interested. With the knowledge that I possess, I cannot vote for the report. So far as the minority report goes, and it does not go very far, it is more in accordance with my views, but it is my intention to vote for the Bill as it was submitted to us by the Government.

The PRESIDENT: The question before the House is the adoption of the dissenting report.

Hon. H. STEWART: I agree that the interpretation put upon the dissenting report by the Minister is the correct one. There is only one conclusion to be arrived at after reading the evidence, and it is that the minority report is in accordance with the testimony that was submitted to the Select Committee, namely, that a connection must be made with the Great Southern line. A perusal of the evidence also shows that from a railway point of view, and bearing in mind the existing state of development at Narrogin, the connection must be at that place. From the railway standpoint it is unthinkable that the line should be carried to and should end at Noombling. Let us consider the class of country that would be served by the construction to that locality. If members turn to page 296 of "Hansard" of last year they will find that Mr. Greig, speaking on the Address-in-reply, said that there were over a million acres of poison land between Brookton and Albany suitable for currant growing, which he claimed could easily be identified by virtue of the growth of the poison plant. He pointed out that from the work that had been done by one of the settlers in the Pingelly district, and by another in the Wagin district, and a third in the Woodanilling district, he believed that there were a million acres of poison land suitable for the production of as fine currants as could be grown anywhere in Western Australia. The mere fact that this million acres was poison country was not sufficient to condemn it for development. Along the Great Southern line there are people who, in recent years, have taken up areas that were formerly despised because of the extensive growth of poison. To-day that land is being cleared of poison and stocked, and in the not distant future it will be put under the plough. I look upon this land as good average country. I have been informed by a number of people familiar with the belt of country west of Brookton to Narrogin that any extension of the railway from Dwarda to connect with the Great Southern line must pass through a tract of inferior country. That is not uncommon in Western Australia. I have travelled extensively on the spur lines recently, and I know that many of those lines run through country which is inferior to that along the suggested route of the Dwarda-Narrogin railway. I am convinced that the area along which the proposed railway will travel, consisting as it does of fair average land, with an assured rainfall and a congenial climate, must eventually become an important mixed farming district, and that considerably increased production will follow from the construction of the railway. Apart from the quality of the land, there is another phase, and it was touched upon by Mr. Burvill—I refer to marketing. I give credit where it is due. In this case I commend the people of Narrogin for their enterprise in various directions. The butter factory at the present time is running to its full capacity, and it has provided a stimulus for the pig-raising industry to the extent that Narrogin is now regarded as a better market than Midland Junction. If the suggested line were taken only to Noombling then stock would have to be railed

to Midland Junction via Pinjarra and the owners would not be in nearly so favourable a position. I support what was said by Mr. Burvill with respect to the value of Narrogin as a market. I understand, and the House understands, from debates that have taken place, and also from files that have been placed at our disposal, that in the not distant future there will be a shortening up of the route from Brookton to Fremantle. That is the impression one gained from what was said by the Premier to a deputation that waited on him from Williams-Narrogin and subsequently another from the settlers of Brookton and Beverley. Not only the present Premier, but his predecessors in office, have referred to the possibility of the shortening of this route. The distance will be reduced in this way from 118 to 80 miles, and there must follow a corresponding reduction in freight.

Hon. J. Nicholson: But if the Brookton-Armadale line be constructed, will this Dwarda-Narrogin railway be necessary?

Hon. H. STEWART: They follow different routes, and will open up different countries. The Brookton-Armadale route has a grade of one in 80, most favourable for the handling of goods. Moreover, it will shorten the distance, and obviate the congestion at Spencer's Brook, so avoiding the position obtaining in New South Wales, where Redfern is a bottle-neck through which all the wheat grown in New South Wales has to pass. Another phase of the matter: In March last, while the Assembly member for Katanning (Mr. A. Thomson) was in England, I looked after his constituency. One thing I had to attend to was to see that the Assembly member for Williams-Narrogin (Mr. Johnston) did not get the order of precedence in railway construction broken in favour of the Narrogin-Dwarda railway, as against the Nyabing-Pingrup extension. In March of last year it was laid down by the then acting Premier, Mr. Colebatch, that the railways authorised in 1914 would be constructed in the order in which they were authorised. As late as the 23rd June, 1922, the acting Premier, referring to the construction of authorised railways, said—

> I explained to Mr. Stewart that it was almost impossible to give a definite assurance as to when the Nyabing-Pingrup line would be completed, but that following the Beneubbin extension, and the Esperance and Busselton-Margaret River lines, came the Nyabing-Pingrup and the Narrogin-Dwarda.

That was the order in which those several lines were to be built as soon as rails were available. Last Saturday week I attended the opening of the Nyabing-Pingrup extension. The Esperance line is not yet finished, nor is the Margaret River railway; I am not sure about the Beneubbin; but those were all started before the Nyabing-Pingrup. The land along the Nyabing-Pingrup line is no better than, indeed it will not bear comparison with, what I know of the district under consideration. I refuse to be a party to the breaking by the Government of their promise. Time after time between March and August, 1922, was the order laid down in which the authorised lines would be constructed. If for that reason alone, the order should be strictly adhered to. I cannot do anything else but support the construction of the line. I am glad that, through the steps taken by my colleague, we have in the Bill a deviation that improves the original line. The district consists of good average country. The fact of its being poison land is not sufficient reason for holding up the line. Practically all the poison country in the Great Southern is valuable for stock; and when, later, it is farmed under scientific measures, it will be highly productive. We have reason to believe that the Brookton-Armadale line will be built in the near future, undercutting the argument that there will be a loss on account of the reduction in freight, due to the reduction in mileage. Last year in March, April, May, June, and July, the acting Premier, Mr. Colebatch, and the Minister for Works, laid down the policy of the Government and stated that when rails became available the authorised lines would be constructed in the order in which they had been authorised. I will support the minority report lest, if it fails to be carried, the majority report might be carried in its stead. I will not support the majority report.

Hon. H. SEDDON (North-East) [6.10]: While I will support the majority report, I have to speak to the amendment; because if the amendment were carried I would not get an opportunity to say what I have to say. There are one or two matters I wish to clear up. In another place questions have been asked implying that, as a member of the select committee, I had been unduly influenced by a business arrangement with Mr. Greig.

The Minister for Education: You need not worry about that.

Hon. H. SEDDON: Any business connections I had with that gentleman were severed long before I became a member of the select committee. As to the company itself, I had, and still have, every reason to believe that it was bona fide. Touching the select committee's report, I want hon. members to remember that we had to go into the whole question and bring before the House all the evidence we could get. As the result of our inquiries we ascertained that from the point of view of agricultural development, a serious mistake was made in extending the Pinjarra-Dwarda railway beyond the last of the timber mills. The line is paying chiefly through its timber traffic.

Hon. T. Moore: I should say it would.

Hon. H. SEDDON: In point of agricultural traffic, the position is entirely different. The proposed railway has been recommended chiefly as an agricultural railway, and we took evidence with that view in mind. Mr. Carroll has pointed out that the bulk of the

evidence was in favour of the construction of the railway. That is only natural. The Pinjarra-Dwarda railway has been in operation since 1913. Its first full year of operation was 1914. Since that year the agricultural traffic on the line has been as follows: In 1915 an increase of 53 per cent.; in 1916 an increase of 60 per cent.; in 1917 a decrease of 18 per cent.; in 1919 a decrease of 12 per cent.; in 1920 an increase of 16 per cent.; in 1921 a decrease of 14 per cent.; in 1922 an increase of 36 per cent.; in 1923 an increase of 84 per cent. That is all based on the trade of 1914. That traffic, expressed in *train loads of agricultural produce over* those years, has been as follows: 1914 six, 1915 eight, 1916 nine, 1917 three, 1919 five, 1920 seven, 1921 six, 1922 eight, 1923 eleven.

Hon. T. Moore: But you do not expect a train to start with a full train load!

Hon. H. SEDDON: No. That refers to the stations between Dwellingup and Dwarda, a distance of 27 miles. Over the whole of the mileage that represents the train loads per annum of agricultural produce. From that standpoint, therefore, the railway was not justified.

The Minister for Education: It will be all right if it goes right through.

Hon. H. SEDDON: Therefore, we are justified in arguing that if the country on to Narrogin be similar to that between Dwellingup and Dwarda, we should expect the same results as we have had from the stations on the existing line. It was from that standpoint we reported that we did not consider the construction of the railway right through justified. On the other hand, we had to take into consideration the accommodation of the soldier settlers at Noombling and at the Fourteen Mile Brook. Our recommendation that the line be extended 12 miles further would give railway communication to those people, and no settler along the whole of the route between Dwarda and Narrogin would be more than 10 miles from a railway.

*Sitting suspended from 6.15 to 7.30 p.m.*

Hon. H. SEDDON: The Bowelling railway serves the Bowelling-Wagin country and also affects about 50 miles of the Narrogin-Collie line. It passes through country similar to that over which it is proposed to build this new railway. The figures will therefore be as interesting as those in connection with the Dwarda-Narrogin line. The Bowelling line was opened for traffic in 1920. If we take the year 1921 as our basis, we find that the increase over the 1920 traffic in 1921 was 6 per cent., in 1922 it was 26 per cent., and in 1923 it was 56 per cent. The traffic on this line for stock is larger than it is in the case of the Dwarda-Narrogin line. Expressed in *train loads this* works out in 1923 at 28 full train loads per annum.

Hon. H. Stewart: Can you give us the traffic on the Bullfinch railway?

Hon. H. SEDDON: That is not an agricultural railway and cannot be compared with this one.

Hon. H. Stewart: You can compare an agricultural railway with a mining railway.

Hon. H. SEDDON: This line must be judged from its standpoint as an agricultural line. Reference was made to the report for 1914 of the Advisory Bill. The figures advanced on that occasion were the estimated figures as to the production along the railway. I have quoted figures of the actual working, which are far more reliable in enabling one to form an opinion as to the benefit of such a railway from the agricultural point of view. A point has been made with regard to the use of the railway for through traffic purposes. It has been stated that the severe grades which exist on the Pinjarra-Dwarda railway greatly affect the working of the through traffic. The load has to be dropped *from Boddington to Dwellingup to* 235 tons, whereas from Dwarda to Boddington the load is 500 tons. This shows what a handicap there would be on the part of the railways if they had to use this as the through railway *from* Narrogin. It was pointed out in the course of evidence that most of the wheat traffic from Narrogin and the south of Narrogin went to Bunbury.

The Minister for Education: It all ought to go that way.

Hon. H. SEDDON: Probably as the wheat traffic increases, much more will go to Bunbury, which is evidently the natural port for that part of the State. In his annual report the Commissioner of Railways complains about non-paying lines. His argument against this railway is that it will increase the amount of non-paying mileage of railways, and generally increase the difficulty without the compensating advantage of increased traffic.

Hon. H. Stewart: What do you think of the proposed Wiluna railway?

Hon. H. SEDDON: One cannot speak regarding that until one gets the figures.

Hon. E. H. Harris: It would be a paying proposition from the start.

Hon. T. Moore: If it is connected with Geraldton.

Hon. H. SEDDON: A good deal has been said about dead ends. The greatest arguments that have been adduced against dead ends by the Commissioner of Railways have been against isolated railways, such as the Hopetoun railway and the Marble Bar railway. The only difficulty that arises here is in connection with the handling of the men. The incidence of the traffic on the railway is such that there would not be great difficulty, if the line were extended another 12 *miles, in the way of working. The greater* amount of traffic would be timber traffic, which starts from Holyoake. It would merely be a matter of working the men from Pinjarra to Holyoake, while the long trips could be worked from Holyoake to the end of the line. It is certainly possible to work the running in such a way as to enable a suitable roster to be got out for the men.

Hon. T. Moore: Holyoake is only about 18 miles from Pinjarra.

Hon. H. SEDDON: The grades there are heavy. If the men worked the train up to Holyoake and back again, it would complete a day's work. It is only a matter of arranging the hours for the men on the running staff. The section between Holyoake and Pinjarra could be worked separately, and the remainder of the line could be worked as a long section.

Hon. A. Burvill: Would it not be cheaper to work it as a through line?

Hon. H. SEDDON: I think not. Most of the traffic is timber, the agricultural traffic being a negligible quantity.

Hon. A. Burvill: The Commissioner says it would be cheaper.

Hon. H. SEDDON: I have pointed out how the men could be worked. Mr. Burvill compared this line with the Canadian railways. The comparison would be more apt if applied to our wheat lands. The amount of progress made in the development of our wheat traffic is more nearly comparable to the position existing in Canada. Their railways are mostly through wheat country. Reference has also been made to the Narrogin market. There is a good deal in the argument to-day, but it must be recognised that the markets of the future will be export markets. The consumption of wool and mutton in this State is very small, and the greater proportion of our market is in the Old Country. Any question of traffic development from this point of view would, therefore, have to be calculated from the aspect of an export market.

Hon. A. Burvill: What about the buying and selling of stock?

Hon. H. SEDDON: On those grounds we have a better chance of developing a market at Fremantle for wool and mutton than we have of developing a local market. These are some of the arguments which induced the select committee to come to its conclusions. We contend that, until the results achieved from existing railways passing through similar country have improved, we would not be justified in the present condition of the finances, in recommending this as a through railway. Because, however, the Government have an obligation cast upon them towards the returned soldiers on the Noombling estate, and the men on the 14-mile group, we have recommended the construction of an extra 12 miles of railway, which would give them railway communication at less expense to the State than if a through line were built. The estimated cost of the latter is £140,000, and of the 12 miles extension £40,000. In the interests of finance, and in the light of the evidence placed before us, we feel we are not justified in recommending anything more than would enable the Government to carry out the promise of providing railway facilities for the settlers in the district.

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

| | |
|---|---|
| Ayes | 6 |
| Noes | 9 |
| Majority against | 3 |

AYES.

| | |
|---|---|
| Hon. W. Carroll | Hon. H. Stewart |
| Hon. E. H. Harris | Hon. A. Burvill |
| Hon. J. W. Kirwan | (*Teller.*) |
| Hon. A. Lovekin | |

NOES.

| | |
|---|---|
| Hon. J. Ewing | Hon. J. Nicholson |
| Hon. J. A. Greig | Hon. G. Potter |
| Hon. R. J. Lynn | Hon. H. Seddon |
| Hon. J. M. Macfarlane | Hon. A. J. H. Saw |
| Hon. T. Moore | (*Teller.*) |

Amendment thus negatived.

Question put and negatived.

## BILL—FACTORIES AND SHOPS ACT AMENDMENT.

Received from the Assembly and read a first time.

## BILL—CHANGE OF NAMES REGULATION.

*Second Reading.*

Hon. A. LOVEKIN (Metropolitan) [7.45] in moving the second reading said: This is a very short Bill and I think it will meet with the approval of the House after I have briefly explained its provisions. The necessity for such a measure became apparent when the predecessor of the present Leader of the House was in office. He then stated that if a Bill of this nature were brought forward, it would receive Government support. The main object in bringing forward the Bill is to endeavour to do something to prevent the loss which accrues to the State through men, who desert their children and wives and leave the State to bear the burden, evading their liabilities by changing their names from time to time. This is a very important matter. Hon. members will realise that the last return furnished by the State Children Department shows that the expenditure involved is £95,625. The expenditure of that amount is necessary for the maintenance of wives and children who have been deserted or who, through some misfortune, have been left unprovided for. Then again, £48,058 was paid to women on whom children were dependent and the maintenance of children who were boarded out cost the State £12,990. In addition to these amounts there are £2,000 here and £1,000 there to different institutions for the maintenance of children who have been thrown upon the State. Speaking as one who through his connection with the Children's Court, has some knowledge of what occurs in the Charities Department, I can assure hon. members that we have great difficulty in tracing men against whom orders have been made for the maintenance of their children. It is often emphasised to us that many pounds are spent in searches for these men. Only recently I saw a memorandum from one officer to another in the department which, perhaps, caused me to bring this Bill forward more promptly than I otherwise

would have done. I have no hesitation in quoting the name of the man in this instance. The memorandum I refer to read as follows:—

> Re Thomas Scanlon.—Further to my minute of the 18th inst., I suggest that the time is opportune for legislation making it an offence for any person to change his or her name except under law. I am satisfied that, as in this case, many of our negligent fathers are evading service of summons by changing their names and living under an alias. If a penalty (imprisonment) were in force for this offence, many men would hesitate before risking their liberty and would be sooner found by police officers, consequently saving much time and expense to this department.

This furnishes one of the reasons for bringing forward the Bill. We find the same thing prevailing in different directions. For instance, in his report for the year ended 30th June, 1921, the State Commissioner of Taxation says:—

> Evasion of tax.—What applies in the Commonwealth equally obtains in Western Australia, and it has been found impossible in some hundreds of cases to bring such defaulters to book. Last year on one large Government construction work, over 250 wage earners were found to be defaulters and the amount of income tax due on their wages totalled over £1,000.

Hon. T. Moore: How many men were concerned?

Hon. A. LOVEKIN: This shows that 250 men were concerned and the tax involved represented £1,000. I think the men referred to were those gentlemen who earn such big wages at Wyndham. The Commissioner continued:—

> As all the men had left the work on its completion, and were scattered throughout the Commonwealth, and could not be located, only a few pounds of the income tax was collected.

Hon. members will realise that if people can get off scot free from the payment of taxation, the burden falls more heavily upon those who are obliged to pay. In his later report the Commissioner of Taxation says practically the same thing. In referring to the amalgamation of the State and Federal Departments, he gives some figures which may be taken as affecting the Bill I am now dealing with. The Commissioner in his report stated:—

> Amalgamation has already been beneficial in bringing to light many evasions of the laws by a comparison of Federal and State income returns; 6,200 defaulters for State income tax were discovered and 6,070 defaulters for Federal income tax, and the amount of additional income collective being about £12,000 for State and £10,000 for Federal, but on account of the whereabouts of many taxpayers not being known, a considerable amount of tax will not be collected.

This Bill will help the Commissioner of Taxation as well as the State Chindren Department. Hon. members can look around and see the necessity for some provision which will prevent people changing their names and evading their just liabilities. It is often reported that a man engaged in shearing sheds is Jones at one shed and Brown at another, with the result that it is impossible to ascertain who the taxpayers really are. Then, again, boarding-houses often lose money because workers and others live there for weeks or months without paying, and then take their departure and cannot be found subsequently.

Hon. A. J. H. Saw: If the Taxation officers cannot catch them, how can we catch them under the Bill?

Hon. A. LOVEKIN: There is provision by which a man cannot change his name without registering that change. He may escape even under this Bill because we cannot prevent the actions of all rogues. If a man who has changed his name is found out, and they are very often found, then a law will be provided by means of the Bill to punish him for having effected that change without registering it.

Hon. J. W. Hickey: They cannot change their names to-day.

Hon. A. LOVEKIN: Perhaps hon. members do not know the law on that point. I will quote from Halsbury's "The Laws of England," Vol. 21. On page 349 Lord Halsbury says with reference to the change of name in general:—

> The law prescribes no rules limiting a man's liberty to change his name. He may assume any name he pleases in addition to or in substitution for his original name; and in adopting even the name or combination of names by which another person is already known, he does not commit a legal wrong against that person. The law concerns itself only with the question whether he has in fact assumed and has come to be known by a name different from that by which he was originally known.

He goes on to say:—

> As regards surnames, there never was any doubt that, as in the first instance they were arbitrarily assumed, so they could be changed at pleasure.

Section 50 of the Police Act provides that a person giving a false name and address to a constable is liable to a penalty. Fortunately, people charged with such an offence have never appealed against the decision of courts. If they had appealed, the superior court would hold that no offence had been committed because there is no such thing as giving a false name. Any person is permitted to take any name he or she pleases, but if the Bill be approved, it will be unlawful for any person to alter his or her name without registering such alteration. The Bill will not affect anyone who has changed his name up to this date. It provides in Clause 2:—

> It shall be unlawful for any person to assume, use or purport to assume or use any name other than that by which such person (a) was registered at birth, or (b) had been known by repute at the commencement of this Act, or (c) had assumed under

any statute, deed poll, or license, or by marriage, except by deed poll executed and registered by such person in the public office of the Registrar of Deeds and Transfers in Perth, maintained under the Act 19 Victoria No. 14, or by license in writing of the Colonial Secretary registered in the said public office.

The penalty provided is a fine of £100 or imprisonment for 12 months. I believe the Bill will do some good. It will not be costly for anyone to change his name. All he has to do is to secure a license and pay a fee of 10s. for it. If hon. members think the fees prescribed in the schedule are too high, they can alter them.

Hon. J. M. Macfarlane: Is the penalty an arbitrary one?

Hon. A. LOVEKIN: No, that is the maximum. No one could reasonably object to a measure of this kind, because no honest person who wants to change his name would object to registering his new name. At present if a man wants to change his name and protect his property, he can do so by means of an ordinary deed and registering it. If property is in question he is not bound to do it. If the Bill be agreed to, however, he would be bound to register the change of name. The Bill will thus enable the Children's Court to find out whether a man against whom an order has been granted has changed his name. Should the change of name not be registered, there is no redress against him until such time as he is found. Sooner or later these men are found out and then they can be punished by fine or imprisonment.

Hon. A. J. H. Saw: Would you have Lord Renfrew prosecuted in Canada?

Hon. A. LOVEKIN: Yes.

Hon. E. H. Harris: Under the State Act?

Hon. A. LOVEKIN: Why should he not register the same as anyone else if he wanted to change his name?

Hon. T. Moore: If you make the fees smaller a man may change his name more often.

Hon. A. LOVEKIN: And that might be more profitable to the State.

Hon. J. W. Kirwan: Dr. Saw referred to Royalty travelling under an assumed name when he mentioned the name of Lord Renfrew.

Hon. A. LOVEKIN: I did not catch the interjection, but, at the same time, I would apply it to the Prince of Wales just the same. I do not see why a Prince should travel under an assumed name any more than anyone else. I do not think he would object to registering his name. As a matter of fact, however, I think Lord Renfrew's name is already registered. The Bill is a small one and I ask hon. members, if they do not think it will be of any use, to give it short shrift and let it go. If they think it may be of some use, I ask them to take the opposite course and permit it to pass as expeditiously as possible, because as this is a private member's Bill it has to be taken in hand by a private member in another place, where the opportunity of bringing forward such matters occurs once a week only. I move—

*That the Bill be now read a second time.*

Question put and passed.

Bill read a second time.

*In Committee.*

Hon. J. W. Kirwan in the Chair; Hon. A. Lovekin in charge of the Bill.

Clause 1—agreed to.

Clause 2—Change of name prohibited:

The MINISTER FOR EDUCATION: I move an amendment—

*That in line 11 "or by" be struck out and the words "on the" inserted in lieu.*

It is thought that these deeds should still be under the Attorney General.

Hon. A. Lovekin: I have no objection to the amendment.

Amendment put and passed.

On motion by the Minister for Education, clause further amended by striking out of lines 11 and 12 "Colonial Secretary registered in the said public office," and inserting "Attorney General or Minister for Justice."

Hon. J. W. HICKEY: The penalty provided is too high.

Hon. J. Nicholson: That is the maximum.

Hon. A. Lovekin: It may cost £80 to get a man.

Hon. J. W. HICKEY: I move an amendment—

*That "One hundred pounds or imprisonment for twelve months" be struck out with a view to inserting "Not exceeding five pounds or one month's imprisonment."*

Hon. A. LOVEKIN: Under the Interpretation Act the penalty provided is the maximum, but for deterrent effect a substantial penalty should be provided. Some men have been traced three or four times in connection with moneys owing to the State and have been passing under a different name each time. It might cost £70 or £80 to apprehend such a man, and a £5 penalty would be quite insufficient.

Hon. A. J. H. SAW: I have a certain amount of sympathy with Mr. Lovekin's object, but the penalty in the great majority of cases would be out of proportion to the offence. I support the amendment, but shall move to insert "twenty-five pounds." Knowing what I do of justice as it is administered, the offender will usually get off with a fine of 10s.

Hon. H. STEWART: Experienced justices apparently do not know that where a penalty is stated, it is the maximum. What would the Minister do if he knew that a party, guilty of a technical offence against the Bush Fires Act, had been fined £5, and the justice had expressed regret that he could not make it 1s.?

Hon. R. J. Lynn: I suppose the Minister would return the money with a bonus.

Hon. J. J. HOLMES: I support the clause. If the Bill is to be of any use, the maximum penalty should be substantial. A man might change his name half a dozen times to evade his responsibilities. The magistrate should have discretion. A storekeeper was supporting a certain contractor, who had a lot of trouble with his men. He was sued for wages, and another storekeeper was one of two justices that heard the claim. The court gave the contractor 24 hours in which to find the money and ordered in default six months imprisonment! Legislate as we will, we cannot overcome such a difficulty as that. I am not concerned so much about the justices as the offenders.

Hon. T. MOORE: I support Mr. Hickey's amendment. Such offences are frequently committed. Quite a lot of men who suffer from thirst on Sunday give the police false names.

Hon. J. J. Holmes: You do not suggest they would be fined £100?

Hon. T. MOORE: What has been said about the justices is quite correct. Technical offences are frequently committed in this State.

Hon. J. J. Holmes: You seem to know.

Hon. T. MOORE: But I have not been caught. As it is admitted there are justices that do not know their work, we should be careful to set a reasonable limit. Under the Police Act the penalty for giving a false name is not so severe as that here proposed.

Hon. A. Lovekin: About £5, I think.

Hon. T. MOORE: We should keep the two measures parallel. I have known cases where men have, by changing their names, got away from boarding-houses without paying; and I do not at all approve of that sort of thing.

Hon. J. NICHOLSON: There is a good deal to be said on both sides of the question. The mover of the Bill desires a sufficient penalty to prevent a repetition of the offence and also to safeguard the interests of the State. A maximum penalty of £100 would no doubt act as a deterrent. We might, however, provide a certain penalty for the first offence, a higher penalty for the second offence, and a penalty of £100 for the third offence.

Hon. T. Moore: But suppose the three offences were technical?

Hon. A. Lovekin: The magistrate would exercise his discretion.

Hon. J. NICHOLSON: The penalties I suggest would only be maximum penalties. The magistrate would take into consideration all the circumstances.

Hon. J. J. HOLMES: With regard to Mr. Nicholson's suggestion, I would point out that there might be three technical offences, and then the magistrate would have to impose a fine of £100 in the third case.

The MINISTER FOR EDUCATION: To me the penalty seems very high. I would be inclined to substitute, as Dr. Saw has suggested, £25 or three months. With regard to our justices of the peace, they are usually well informed men, and unlikely to make mistakes of the kind mentioned. Errors resulting from ignorance can be rectified by the Minister for Justice.

Hon. A. LOVEKIN: For people who try to get away and shirk their responsibilities, we should provide a substantial penalty. If we leave the clause as it is, we shall be providing almost as strong a deterrent as can be obtained under the Bill. Rather than accept such a penalty as £5, I would drop the Bill. If the maximum is less than £100, that will not prevent a magistrate from imposing a fine of one shilling. But if he found that a man had deliberately changed his name three or four times to evade his responsibility towards his children, he should be able to impose a substantial fine or a substantial term of imprisonment. I should prefer the Committee to leave the clause as it is, seeing that it is purely discretionary.

Hon. J. W. HICKEY: The Police Act provides a penalty for the offence here in view. Suppose a man gave a wrong name: under which measure would he be tried, the Police Act or this measure? It would be wrong to have different Acts apply to the same offence.

Hon. A. LOVEKIN: Under Section 50 of the Police Act any person giving a false name or address when applied to by the police for his name and address is liable to a fine not exceeding £5 or imprisonment not exceeding three calendar months. In moving the second reading of the Bill, I drew attention to this provision in the Police Act. But when a man is prosecuted under the Police Act for giving a false name, the question arises what is a false name. On an appeal it would, I think, be held that the man did not give a false name, because, according to Lord Halsbury, a man is entitled to have any name he likes from one five minutes to another. Until we get a measure defining what a false name is, that section of the Police Act will not be effective.

Hon. A. J. H. SAW: The offence of giving a false name to the police, and the offence of giving a false name under this measure, are two totally different things. The one offence is committed without premeditation. I am not prepared to follow Mr. Lovekin in saying that the Police Act, so far as this offence is concerned, is invalid.

Hon. A. Lovekin: What is a false name under that Act?

Hon. A. J. H. SAW: A name which is not the name of the man who gives it, and which is given to the police in the circumstances laid down. The offence under this measure will be an entirely different one. The object here is to catch the man who deliberately, and over a period, represents himself as being somebody else, and sails under a false name. However, I hold that the maximum penalty in the Bill is far too great and will bring the measure into discredit. Furthermore, the maximum will act as a guide to justices of the peace who are not very familiar with the law. Such justices will say, "Here is a pen-

alty of £100, so Parliament must regard the offence as very heinous." But the offence may be quite an innocent offence. A man who has got into difficulties may want to make a fresh start in life. Then, if he is found out, he will be haled before justices, and they, guided by this maximum of £100, may impose a severe penalty.

Hon. A. Lovekin: If the man is honest, he will register. Then there will be no offence.

Hon. A. J. H. SAW: An honest man may not necessarily register. He may not want to disclose his change of name to anybody. In the majority of cases a maximum penalty of £25 would be ample. I do not agree, either, that the heinousness of the offence is to be measured by the number of times it is committed. I consider the heinousness is to be measured by the object for which the false name is assumed, and by the harm resulting from such assumption. A penalty of £100 will probably involve the loss of the Bill, and certainly will not tend to make it effective.

Amendment (to strike out "£100 or imprisonment for 12 months") put and passed.

The CHAIRMAN: The amendment before the Committee now is that the words "not exceeding £5 or one month's imprisonment" be inserted.

Hon. A. J. H. SAW: I move an amendment on the amendment—

*That "five" be struck out and "twenty-five" inserted in lieu; and that "one" before "month" be struck out and "three" inserted in lieu.*

Hon. J. W. HICKEY: For an offence of this description a penalty not exceeding £5 is quite sufficient. The offence may be as has been described by Mr. Lovekin; at the same time we must remember that many people will be seriously affected by legislation of this description. There are instances where men are obliged to adopt assumed names and they have no intention of evading taxation or any other law.

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

Clauses 3 to 5 agreed to.

Schedule—consequentially amended.

Title—agreed to.

Bill reported with amendments.

## BILL—PROPERTY.

*Second Reading—Amendment (Six Months) carried.*

Debate resumed from 25th September on the motion by the Minister for Education that the Bill be read a second time, and on the amendment by Hon. J. Nicholson that "now" be struck out and "this day six months" be added to the motion.

Hon. J. W. KIRWAN (South) [8.40]: I have been at some pains to acquire a knowledge of the Bill now before us. It is of considerable importance, and it should be so regarded, especially by a Chamber like the Legislative Council. Members are elected to the Legislative Council on a property qualification and we are supposed to be the guardians of the rights of property. It is certain that if the Property Bill be agreed to in this Chamber, that fact will be a recommendation to another place, and it will probably pass through that House without further revision. After a careful study of the Bill, and after a strenuous effort to understand it from beginning to end, and having discussed it with some members of the legal profession, I am satisfied that we ought to approach it with a good deal of caution. The scope of the Bill is extremely wide. Hon. members can see for themselves that it is very bulky, covering as it does 114 pages, and comprising 197 clauses, in addition to which it has no fewer than 11 schedules. It has an important bearing on a large number of the Acts upon the statute book. It repeals no fewer than six Acts of Parliament and renders inoperative 11, or 17 altogether that will be either repealed or rendered inoperative. Apart from that, it affects a number of other Acts, as will be found by reference to Clause 4. So that in approaching a Bill of this kind we ought, as I have already said, be extremely careful. The Bill affectes property in all its phases; it deals with everything concerning property fees, wills, mortgages, powers of attorney, conveyancing and the law of entail and inheritance. It is true that a portion of the Bill is a consolidating measure, but apart from that it contains several new and somewhat sweeping reforms. It substantially incorporates the provisions of the Imperial Act, 1881, dealing with conveyancing and the law of property, and there are several clauses that are taken from the Act passed recently in England known as the Birkenhead Act. That law, however, was so intricate that it was decided to suspend its operations until 1925. Some reference was made by Mr. Lovekin to a book specially written to explain Lord Birkenhead's Act. The Bill explains the provisions of that Act. But we ought to take into consideration the fact that the law affecting property in the British Isles is very different from the law in Australia. The law in the British Isles has its roots away back in the feudal system, and involves a great many considerations that do not apply to the property law in Australia, which is largely governed by the Torrens Act. For that reason there is in Birkenhead's law much that is not applicable to Australian conditions and which, if introduced here, might only complicate matters. I received from Mr. Lovekin the book dealing with the Birkenhead law. It speaks of the old law and the new law. The old law is the law that was in operation, is still in operation, and will remain in operation until the Birkenhead Act comes into force. The book has been written by Mr. Topham, a distinguished King's Coun-

sel in England. It certainly is of great assistance to anyone who wishes to understand the Bill. It simplifies, as much as so complicated a system can be simplified, the law affecting property. In the first paragraph of this book is a reference that should be a warning to us before we hastily pass a Bill of this nature. It refers to the extraordinary difficulties that met the Imperial authorities when endeavouring to frame the law affecting property. It says—

> The law relating to land has always been the most difficult branch of English law, partly because it is peculiar to England and differs widely from any other system, and partly because it is founded on ancient rules and formalities invented to suit a society in which writing was almost unknown, and land was by far the most important form of wealth.

That indicates the difficulties that will face us if we wish to be quite satisfied that the Bill is all that it ought to be.

Hon. A. Lovekin: But the very opening words of the book put it even more strongly.

Hon. J. W. KIRWAN: The hon. member probably refers to this statement—

> The law relating to land has been entirely changed by the Law of Property Act of 1922.

Hon. A. Lovekin: Yes.

Hon. J. W. KIRWAN: However, the book itself is an argument against our passing a measure like this hastily or without being quite satisfied that we have the best authorities to advise us on so intricate a question. One thing that rather astonishes me is that a Bill of this sort, the most technical and intricate that has been brought before Parliament during my experience here, should be submitted at a time when we have no Attorney General. It is unfortunate that Parliament at present has a singular dearth of lawyers. We know that the Bill has been framed in the Crown Law Department, but who is behind it or why it is being pushed forward at present is something we should like to clearly understand.

The Minister for Education: It is not being pushed forward.

Hon. J. W. KIRWAN: The fact that it has been brought forward at a time when there is no Attorney General, when the law has remained undisturbed for so many years, and when there has been no demand for it, justifies the statement that it is being pushed forward. It was brought forward last session. I heard no demand for it. It has been brought forward again this session. I have the highest regard for the Solicitor General, a most conscientious, painstaking and able gentleman. But the Minister for Justice, I take it, is advised by the Solicitor General, and however able or conscientious that gentleman may be, Parliament requires some legal check upon his advice. At present the constitution of the Ministry is such that that check is not provided by any Minister. Take the speech delivered by the Minister for Education in moving the second reading of the Bill. I do not like to say it, but I read that speech several times in "Hansard" in a vain endeavour to get some assistance from it as to the meaning of the Bill. I have not been assisted in any way, and I do not think any hon. member who studies that speech in "Hansard" can get any light from it. I do not blame the Leader of the House.

Hon. A. J. H. Saw: Then you do not say the Minister has pushed the Bill forward?

Hon. J. W. KIRWAN: I do not say he has pushed it, but I say somebody seems to be pushing it forward.

Hon. J. J. Holmes: Does the Minister object to your suggesting that his Government has pushed him?

Hon. A. J. H. Saw: They are pushing immigration, anyhow.

Hon. J. W. KIRWAN: I do not blame the Minister because the speech he delivered did not throw any light on the Bill. As I have already pointed out, he has a large number of departments to look after. He must be an extremely busy man. His duties as Minister for Justice, I take it, are the lightest of all. He is also Minister for Education and Minister for the North-West, and has a multiplicity of duties to perform. He could hardly be expected to have acquired a thorough grip of the Bill, which could only be obtained after months of study. I have been looking at it for the last few weeks, and I would not venture to say I have more than an elementary knowledge of it; because in view of all the references that have to be looked up and of the complexity of some of the clauses, it would take a very long time to acquire the knowledge necessary for any Minister to be able to come here and say the Bill ought to be placed on the statute-book. I was sorry that the one member we have whose opinion we should like to hear on this question did not speak to the Bill, but merely proposed that it be read this day six months. What happened, I think was that he intended to move that the debate be adjourned for a month. Then Mr. Lovekin suggested six months, and Mr. Nicholson moved his amendment that the Bill be read this day six months, and sat down without having given us his reasons why such a drastic course should be followed. I hope that, later on, Mr. Nicholson will rectify that mistake. As he did not speak on the Bill, I take it he will have an opportunity to give us his views, so that the House may know exactly why he asked us to take so extreme a course. From what I have read of the Bill, I support the amendment moved by Mr. Nicholson. One reason for that is that there are certain clauses with which I do not agree. Those clauses may be amended in Committee. Still some features of the Bill are decidedly objectionable to me. And there are general reasons why I think it desirable the House should support the amendment. One is that, as Mr. Lovekin said, the House should have full opportunity for studying this book on the new law of property.

The Minister for Education: There might be another book next month.

Hon. J. W. KIRWAN: But this is a standard work, written by a man of the highest legal authority. It would be most extraordinary if a law closely akin to Birkenhead's law of England were to be brought into operation in Western Australia before it was in force in England, where it has been thought advisable to suspend the operation of the Act until 1925. No harm can be done in supporting Mr. Nicholson's amendment that the Bill be read this day six months. Another argument that might be advanced is this: As there has been no demand in Western Australia for the Property Bill, surely we can wait and see how the new law operates in England, and benefit by England's experience before we try to bring it into force in Western Australia. Further, I am influenced strongly in advocating that the Bill be read this day six months by the attitude of the Barristers' Board which, strangely enough, was used by the Minister as an argument in favour of the Bill. To my mind the attitude of the Barristers' Board justifies delay. The Barristers' Board, in their letter, admit that in many respects the measure introduces salutary and useful amendments of the law. That, no doubt, is right; but, unfortunately, the Barristers' Board do not give the slightest indication of what are the salutary and useful amendments embodied in the Bill. The board might well be asked by the Minister for Justice to indicate what these salutary and useful amendments are. It would be very useful to us in dealing with the Bill in Committee.

Hon. A. J. H. Saw: Have they not a committee to examine the Bill?

Hon. J. W. KIRWAN: I sincerely hope they have one, but it would be news to me. The Barristers' Board go on to say:—

> Difficulties presented themselves on close examination of some of the sections which call for a full consideration at the hands of practical experts in this branch of the law.

Surely, when these difficulties present themselves to members of the Barristers' Board, experienced conveyancers as some of them are, the difficulties must be very great to laymen in dealing with the measure. The Barristers' Board goes on to say:—

> The conveyancers present were unwilling to express a definite opinion as to the effect and result of these sections without further consideration and discussion.

In other words, the Barristers' Board desire this further consideration and discussion, and in that case, and as there is no urgency about the matter, why should this Bill be passed during this session? Then the Barristers' Board add—

> The far-reaching importance and length of the Property Bill, as well as its technical nature, call for a much fuller consideration than the professional experts have been able to devote to this measure in the short time since it has been available in its present form.

In other words, the Barristers' Board themselves ask for delay. I urge the House to vote with Mr. Nicholson in order that the Barristers' Board may have the opportunity they ask. The Board ought to be communicated with, and ought to be asked to assist Parliament to arrive at a proper decision. The letter continues:—

> In the opinion of my board this Bill is of such importance as to require a very full and expert investigation in the public interests before being placed on the statute-book.

Surely that, coming from an authoritative body like the Barristers' Board, is sufficient justification for our voting for the amendment.

The MINISTER FOR EDUCATION (Hon. J. Ewing—South-West—on amendment) [9.5]: There seems to be a note of alarm struck by Mr. Lovekin, by Mr. Kirwan, and other members. They seem to be afraid to face the position.

Hon. A. Lovekin: You do not appreciate the difficulties.

The MINISTER FOR EDUCATION: I do. I hope the House will not take the drastic action of destroying this Bill. If it is lost, the work will have to be started again, and the same ideas and opinions which have been expressed during this session will again be expressed next session. Are members going to give consideration to this Bill, or are they going any further with regard to seeking the views of the Barristers' Board? Unless we get into thorough touch with them and analyse the position fully and sufficiently——

Hon. H. Stewart: Do you mean the House should get into touch with the Barristers' Board?

The MINISTER FOR EDUCATION: I am very earnest about this matter. Mr. Kirwan regrets there is no Attorney General. This has been the case in Western Australia since the last general election. My predecessor in office was Minister for Justice, as I am. He did not pretend to be a lawyer, and neither do I. My desire, and that of the Crown Law Department and other high legal authorities in Western Australia, is to do that which is right in regard to the law of property.

Hon. A. Lovekin: Your predecessor did not want to tackle the Bill.

The MINISTER FOR EDUCATION: That is so. Although I am not a solicitor, I can realise that there is much of great value in this Bill. That is testified to by the letter from the Barristers' Board, which says there are many good points in it.

Hon. J. W. Kirwan: No one denies that.

The MINISTER FOR EDUCATION: If the good points are there, they do not seem to be recognised by members. In addition to being a consolidating measure to a great extent, this embodies an improvement to the law, an improvement which already exists in New South Wales, in New Zealand, and other parts of Australasia.

Hon. J. W. Kirwan: There are many objectionable features about it.

Hon. A. Lovekin: What do you think of Clause 9?

The MINISTER FOR EDUCATION: Some of the provisions of the Bill are taken from Lord Birkenhead's Act. I suggest to the House a reasonable and fair proposal. I have no desire, neither have the Government, to force this measure upon members. All we want is to make a thorough and proper investigation into the position. That could be done by means of a competent select committee of three members of this House, who would be willing to devote a limited amount of their time during the next month or so to calling evidence, and to sifting this Bill as far as they can.

Hon. A. Lovekin: Do you think this could be grasped in a month?

The MINISTER FOR EDUCATION: Say three months. What is the use of voting the Bill out, and the matter lying idle for the next 12 months? Is it not better to have a select committee to go into it? Mr. Nicholson would make an ideal chairman. If an investigation were made it would be found that there was nothing to take exception to about the Bill, and that it was a simple one. With Mr. Nicholson's knowledge of the law, the work will prove easy. He will be able to place his ability at the disposal of the country, and in conjunction with the other members of the committee, give us a report of great value. I am sorry the hon. member moved the amendment. It would have been better if the Bill had been defeated on the second reading.

Hon. A. Lovekin: We only want time; not to defeat the Bill.

The MINISTER FOR EDUCATION: I am prepared to give time, but I do not want the Bill thrown out.

Hon. J. W. Kirwan: What time is there in which a select committee could take evidence and bring in a report?

The MINISTER FOR EDUCATION: A select committee could be appointed as an honorary Royal Commission.

Hon. A. Lovekin: Your predecessor said he would do that with the arbitration law.

The MINISTER FOR EDUCATION: The honorary Royal Commission could continue the work. I admit it would be arduous work, for it is a difficult Bill. I am sure Mr. Nicholson would be only too pleased to help us to elucidate it before the next session. The work done upon the Bill by the Crown Law Department would then not be lost, and we should have a report that would be of great value.

Hon. A. Lovekin: Under the amendment the Bill would not be lost.

The MINISTER FOR EDUCATION: Of course it would.

Hon. A. Lovekin: The work would not be lost, for the Bill could come up next session.

The MINISTER FOR EDUCATION: The work would not be continued. I would not expect members to give up too much of their time to this work, but I hope they will consider the suggestion I have made and adopt it.

Hon. A. Lovekin: How are we to examine witnesses before we have mastered the Bill?

The MINISTER FOR EDUCATION: The Bill could be mastered in the course of taking evidence.

Hon. A. Lovekin: We would not know what questions to ask.

The MINISTER FOR EDUCATION: Mr. Nicholson would know.

Hon. A. Lovekin: But the other members of the committee would not.

The MINISTER FOR EDUCATION: He would be the chairman and would know what questions to ask. He would be doing a great service to the country and to the Government.

Hon. R. J. Lynn: Mr. Lovekin has an analytical mind.

The MINISTER FOR EDUCATION: Yes, and I would propose to put him on the select committee. The appointment of a select committee would show that we did not want to rush this Bill through. We want to ascertain if, in the interests of the country, the Bill should be passed.

Hon. J. NICHOLSON (Metropolitan—in reply) [9.12]: Members who have spoken agree that the Bill seeks to make important reforms. The more one looks into it, the more one is impressed with the care that will require to be exercised before we actually pass this into law.

The Minister for Education: That is so.

Hon. J. NICHOLSON: The Leader of the House cannot be accused of unduly rushing this measure. He brought it forward in the early part of the session, and announced he would be prepared to give every reasonable opportunity for its consideration. I believe the Bill has been largely inspired by reason of the reformatory measure introduced in England by Lord Birkenhead.

The Minister for Education: That is only part of this measure.

Hon. J. NICHOLSON: Yes.

Hon. H. Stewart: Cabinet are great imitators.

Hon. J. NICHOLSON: As Mr. Kirwan pointed out, 17 Acts will be affected if we pass this Bill.

Hon. R. J. Lynn: Will it wipe out any of them?

Hon. J. NICHOLSON: It will wipe out a great many of them. So many of them will be repealed and so many of them will be rendered inoperative.

The Minister for Education: You want a consolidation of the Acts, do you not?

Hon. J. NICHOLSON: In dealing with any laws affecting our land it is essential that the greatest possible care be exercised.

Hon. A. Lovekin: In any case this does not mean a consolidation.

Hon. J. NICHOLSON: I will deal with that too. The Minister says that the Bill is intended to be in part a consolidating one. As a matter of fact, it is far from being that. It is of such a reformative character that it is very far reaching in its effect. The more hon. members look into the clauses, the more they will realise how difficult it is to compre-

hend the meaning of many of those appearing in the Bill. The measure is one for experts and the greatest possible time and care would require to be exercised in considering not only every clause, but, in some cases, every word in the clause. It must be realised that a word may have a very serious effect in connection with many parts of the Bill. As to the consolidation suggestion of the Minister, the Government in introducing the Bill have just gone a step too far. What should have been done was to introduce a consolidating Bill. If members look at the index to the statutes, they will find a very long list of Acts dealing with our land laws. Those Acts have been the basis of our laws dealing with land for many years, practically since the foundation of the Colony. The basic law relating to land tenure was taken from England and, in fact, we have adopted a large number of English statutes. It would have been worth while if the Government, instead of bringing forward a reformative Bill such as the one under discussion, had placed before hon. members one which might be regarded as a truly consolidated measure. That would have been a wise step towards the ultimate end contemplated in the Bill. We would then have been able to judge how far these amendments embodied in the Bill would seriously affect our laws as they stand at present. We could then have considered the matter more thoroughly than is possible under the present conditions. I contend that if any man were to take up the Bill or if it were to be referred to a select committee for consideration, it would be found that those engaged upon the work would be in a fog before they had proceeded very far. I refer hon. members to the marginal notes, and there they will find that many of these amendments are drawn from various countries. Some amendments have been taken from the legislation operating in the Old Land. Others are from the law in New South Wales, while the Acts in Victoria, New Zealand, and, I think, in South Australia, have also been consulted. In considering the various clauses which have been introduced from laws in force in other parts of the world, we have to consider how far these are applicable to our own conditions here and also to our existing laws. We would also have to consider why the provisions dealt with were introduced in other countries. This would involve a very careful perusal of the Acts of other countries as well.

The Minister for Education: Does not that apply to every measure?

Hon. J. NICHOLSON: It applies to a measure such as the one under discussion more seriously than to ordinary measures, because we all know that laws relating to land tenure have their foundations in the customs of most ancient times. The various laws which have been established from generation to generation have been carefully thought out and now by a stroke of the pen we are seeking to bring about a reformation. While it is quite true that my remarks may be said to extend to other measures as well, it comes with much greater force when legislation is introduced to bring about the amendments contemplated in the Bill. In Lord Birkenhead's Act, which was introduced last session in the Motherland, it was provided that the Act should not come into force until the year 1925. In England the Government had the benefit of the opinion of the greatest experts in the laws of the land. They were aided by specialists, and it was only after the most mature consideration that the measure was given the force of law. Here a Bill is introduced to hon. members and it has been suggested that it should be referred to a select committee, who should furnish a report in due course during the present session, with a view to the Bill being further considered during another session and then finalised.

The Minister for Education: I did not say it was necessary to bring in a report at once.

Hon. J. NICHOLSON: The Leader of the House has always been courteous in regard to this matter, and anxious to give a reasonable time for consideration. I suggest that the Government in addition to leaving it to the officers of the Crown Law Department to prepare the Bill, should have submitted it to a board of experts for the fullest consideration, and then a select committee, if need be, could have dealt with it and submitted a report.

The Minister for Education: It has been referred to the Barristers' Board.

Hon. J. NICHOLSON: I will make reference to that point later on. Thus, it would seem that the proposal to refer the Bill to a board of experts is a more speedy way of seeking to reform the law. As I have already mentioned, the wiser course would have been to first consolidate our laws affecting real property. If any hon. member were to take the trouble to go through the various clauses, and compare them and carefully read the Acts from which the amendments have been taken, he would have the greatest possible difficulty in knowing exactly where he was. If the Government took the trouble to consolidate our existing law it would greatly assist members in considering a Bill such as the present one. Some of the amendments make it most difficult to know exactly what the effect on the law will be and it is important to give us the benefit of this consolidation before the Government seek to bring in a reformative Bill such as the one I am discussing. If that were done, the reference to a board of experts might be considered subsequently. The Leader of the House has stated that the Bill was referred to the Barristers' Board, and he read a letter already quoted by Mr. Kirwan. The Leader of the House claimed that that letter supported his view that the Bill now before the House was of a salutary character and would prove beneficial.

The Minister for Education: They say so.

Hon. J. NICHOLSON: The Minister must have misinterpreted what the board stated in the letter. It is true that the letter states

"In many respects the measure introduces salutary and useful amendments of the law."

The Minister for Education: That is something, at any rate.

Hon. J. NICHOLSON: It is nothing when we read the context. The Minister did not emphasise the later wording of the letter when it is stated—

> Difficulties, however, presented themselves on close examination of some of the sections which call for a full consideration at the hands of practical experts in this branch of the law—

That was the first stumbling block—

> Conveyancers present were unwilling to express a definite opinion as to the effect and result of these sections without further consideration and discussion. This Bill is a lengthy and complicated measure, and introduces far reaching changes in the law existing in this State. The Law of Property Bill recently passed in England has been postponed in its application till 1st January, 1925. The far reaching importance and length of the Property Bill as well as its technical nature call for a much fuller consideration than the professional experts have been able to devote to this measure in the short time since it has been available in its present form. In the opinion of my board, this Bill is of such importance as to require a very full and expert investigation in the public interest before being placed on the statute book.

If anyone can say that that letter supports the Minister in introducing the measure I cannot agree with him.

Hon. A. Lovekin: If they want more time to consider the matter, how much more should we want it.

Hon. J. NICHOLSON: Exactly. A band of laymen would find the greatest possible difficulty in understanding the provisions of the Bill. In a few cases one could not possibly hope to understand the meaning of some of the words.

Hon. T. Moore: An expert board consisting of barristers would disagree very often.

Hon. J. NICHOLSON: That is quite true. I wish to refer to two or three clauses to emphasise why we should consider this matter a little more fully. Clause 13—

The Minister for Education: That is an unlucky start.

Hon. J. NICHOLSON: Perhaps so. It provides—

> In all cases where two or more persons have died under circumstances rendering it uncertain which of them survived, the deaths shall, subject to any order of the court, for all purposes affecting the title to any property be presumed to have taken place in order of seniority and the younger be deemed to have survived the elder.

Let me take an example of what it might mean. Assume that a wife is 25 and the husband 30; they are travelling on a boat and go down with the vessel. In the absence of absolute evidence that the wife died first, it must be assumed that she, who was the younger, survived the husband.

Hon. J. W. Kirwan: Although she may not have been the stronger.

Hon. J. NICHOLSON: In ordinary circumstances the husband would be the stronger.

Hon. A. J. H. Saw: Presumably he would hold the wife up until he died.

Hon. J. NICHOLSON: The chances would be that the husband survived her, but we are assuming that no one was left to give evidence as to who was seen alive last. If the husband died intestate the law is that so much of his property would devolve on the relatives of the wife, she being deemed the survivor—property that otherwise might have gone in another direction. The clause in itself is simple, but it might have a very far-reaching effect. I merely mention this as one of many instances, because it is difficult to say what the circumstances might be.

Hon. T. Moore: The clause is taken from the English Act, is it not?

Hon. J. NICHOLSON: I believe it is also in the New South Wales Act. There are certain far-reaching clauses in some of our old Acts, but none so far-reaching as that. There are many things to be considered and many views might be advanced as to the propriety of adopting it for our law.

Hon. A. J. H. Saw: We are competent to judge that, are we not?

Hon. J. NICHOLSON: I am giving simple instances; there are others that one would find great difficulty in following.

The Minister for Education: A lawyer would not experience any difficulty.

Hon. J. NICHOLSON: A lawyer would find difficulty in deciding how far some of these particular provisions affected our law. Clause 40 begins—

> A conveyance of land shall be deemed to include and shall by virtue of this Act operate to convey with the land all buildings, erections, fixtures, fences, ways, watercourses, etc.

Ordinarily fixtures do pass with the land, but one would naturally expect to find in amending legislation such as this, provision made to preserve and protect the rights of leaseholders that may have erected certain buildings with the right of removal. But there is no such safeguard. Subclause 3 of the same clause reads—

> This section applies only if and as far as a contrary intention is not expressed in the conveyance, and shall have effect subject to the terms of the conveyance and to the provisions therein contained.

There is no provision with regard to the rights of a lessee who may have erected a building. Clause 84 reads—

> On a judgment of any court for a debt secured by mortgage of any property the equity of redemption in the mortgaged property shall not be liable to be taken in execution under the judgment.

The law at present is that if any person lending money as a mortgagee is unfortunate enough to find that the mortgagor has de-

faulted, he has the right to sue and to issue execution against the land mortgaged to him. Why should he be deprived of that right? I see no reason why he should be. That may be altered in Committee, but there may be some reason for suggesting the amendment. Such an amendment, however, should be considered after it has been carefully weighed by a board of experts, together with the other amendments proposed.

The Minister for Education: It has been in force in New South Wales for some years.

Hon. J. W. Kirwan: It does not follow that it is right and it is not right.

Hon. J. NICHOLSON: There are also certain amendments proposed in the latter part of the Bill beginning at Clause 157 dealing with the Transfer of Land Act. Amongst the amendments is one in Clause 163. A registered certificate gives practically an indefeasible title to the possession of land. Those who have had dealings in land know that in many instances small encroachments have occurred in the course of years, because many of the original surveys were not as accurate as they might have been. A person may have been in possession of certain land for many years, erected a wall, and encroached an inch or two on the adjoining property. He may have been in undisturbed possession for 50 years and may then find himself in the position, under an amending measure such as this, of having to buy back at considerable cost the right to retain the inch or two of encroachment. There is something to be said for an indefeasible title being created by a certificate, but there is also the other side to be considered. Having regard to the wide and complicated nature of the amendments proposed by the Bill, the Government would be well advised to adopt my suggestion to seek as a first step to consolidate our laws dealing with real property, and then take as a second step such a measure as this and refer it to a board of experts if it is thought that time is ripe for it.

Hon. A. J. H. SAW (Metropolitan-Suburban) [9.43]: I think members will agree, that the subject bristles with considerable difficulty.

Hon. H. Stewart: Especially after hearing the clauses read.

Hon. A. J. H. SAW: The wisest course for the Government to adopt even now would be to appoint a paid commission consisting of experts accustomed to dealing with the laws affecting property, and obtain their advice on a measure that would consolidate the law and embrace such amendments as were considered necessary.

Hon. T. Moore: Is not this Bill put up by experts?

Hon. A. J. H. SAW: This Bill, I understand, is the product of the brains of the Crown Law Department.

The Minister for Education: And a good product, too.

Hon. A. J. H. SAW: Although I have every confidence in the ability and industry of the Solicitor General, I do not think that in a matter of such importance the House should have only one legal opinion to guide it. I understand that Mr. Nicholson is not willing to accept the chairmanship of a committee of inquiry.

The Minister for Education: He has not said so.

Hon. J. Nicholson: I would be glad to assist in any way I could.

Hon. A. J. H. SAW: Whether the hon. member is willing or unwilling, he seemed to think that the Bill should be read a second time this day six months. That does not look like willingness to preside over a select committee on the Bill. I understood, though he did not say so in so many words, that he was unwilling to preside over a select committee. I now ask the hon. member, is he willing to take the chairmanship of such a select committee?

Hon. J. Nicholson: I did not say I was not willing.

Hon. A. J. H. SAW: I presume from that remark that although the hon. member does not like to say it, he is unwilling. However, I do not think it would be fair to ask members of this House to act as a select committee on a Bill involving such an enormous amount of labour as this one, and, moreover, a Bill concerning which they have no inside knowledge. Consequently I intend to support the amendment moved by Mr. Nicholson.

Amendment put and passed; the Bill rejected.

*House adjourned at 9.48 p.m.*

# Legislative Assembly.

*Tuesday, 6th November, 1923.*



The DEPUTY SPEAKER took the Chair at 4.30 p.m., and read prayers.

## QUESTION—POLICE FORCE, APPLICANTS.

Mr. LUTEY (for Mr. Marshall) asked the Minister for Mines: 1, What is the total number of applications by persons born outside the Commonwealth for admission to the police force for the year ended 31st October, 1923? 2, What is the total number of appli-