we should get over the difficulty as soon as possible.

MR. FRANK WILSON congratulated the Government in having provided a large sum in making provision for the inmates of the asylums. Years ago members condemned the arrangements which were then and now were in existence at Fremantle. It was urged that a new hospital should be provided. He thought the new building had been placed in an unsuitable position. We ought to have had the building erected on better soil. If we were to try to effect cures of the insane we ought to give them as much indoor occupation as possible. The site of the building was unsuitable; it was on a sandhill on the commonage.

THE MINISTER FOR WORKS: It was an ideal site.

MR. FRANK WILSON: It might be an ideal site as far as situation was concerned, but it was a bad position for gardening. For every five shillings' worth of vegetables grown it would cost the country £1. He protested against this large sum of money being expended on the day-labour system. It was the only building of size that had been constructed under that system. Members would find the public moneys of the State were being wasted by adopting this principle. The work ought to be let on contract. Did the Minister invite tenders for the construction of the work as against the estimate made by his own department? Whenever we went in for departmental construction we ought to adopt a system of making the Works Department produce their estimate in a sealed envelope and putting it in with the tenders from outsiders so as to have a check on the work. We were adopting a very dangerous method by constructing all works under the day-labour system.

THE MINISTER FOR WORKS: The site at Claremont was very suitable. The building was erected on high ground, but below in the valley there was good soil for a garden. It was necessary that the inmates should have an opportunity of working in that garden. What mostly influenced him in his determination to construct the work departmentally was because we could not specify every detail in connection with the building. It was impossible in buildings of this kind to specify every detail necessary to safeguard the lives of the inmates, who took every opportunity they could to take their own lives. Every provision should be made to prevent this being done. The Chief Architect said that it was hard to specify every detail and he could not guarantee that there would be no extras. If the work had been carried out by contractors it would have been more expensive than being carried out departmentally. He denied that contract work was cheaper than departmental construction.

MR. A. J. WILSON: The Minister had received most cordial support, and it was the duty of members who believed in the principle of day labour to back the Minister up.

On motion by the MINISTER FOR WORKS, progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at ten minutes past 1 o'clock Wednesday afternoon (thus ending the extended sitting); to resume the same afternoon at 2·30 o'clock.

Legislative Council.

Wednesday, 21st December, 1904.

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

PRAYERS.

PETITION—EARLY CLOSING ACT.

HON. G. RANDELL presented a petition from employees in the hairdressing trade of Perth and surrounding district (62 signatures), in favour of a continuance of the existing Act.

Petition received, read, and to be considered in connection with the amending Bill.

BILL, FIRST READING.

PERMANENT RESERVE REDEDICATION, introduced by the Minister for Lands.

LEAVE OF ABSENCE.

HON. W. MALEY (South-East) moved that leave of absence for one fortnight be granted to the Hon. C. A. Piesse (South-East), on the ground of urgent private business. No member was more anxious than the hon. member to be present at our deliberations, and it was a matter of extreme urgency which compelled him to be absent, having certain duties to perform. Unfortunately members of this Chamber did not know when the end of the session would occur, and they could not make their private arrangements coincide with the rush of business that was taking place.

Question passed, and leave given.

MOTION—FIRES IN AGRICULTURAL DISTRICTS.

RAILWAY SPARKS.

HON. V. HAMERSLEY (East): I beg to move—

That in the opinion of this House, in order to minimise the danger from sparks, Newcastle coal only should be used on trains passing through agricultural districts during the months of December, January, and February in each year.

My reason for moving this will appeal to every member. It is not a new question; I believe it has been before the House on several occasions; and I know that at almost every agricultural conference held for years past the question has been discussed. I was for some considerable time under the impression that only Newcastle coal was being used on our railways; but the fires that have recently taken place along the railway fences show that a considerable quantity of Collie coal is being used. I can only refer members to the newspaper this morning, which mentions disastrous and appalling fires, as a convincing argument in favour of the motion. I feel sure that all members, as I do personally, would do everything possible to encourage the Collie coal industry; we do not wish to do anything detrimental to that industry; but in fostering that industry we have no right to do so to the detriment of the agricultural and pastoral industries. It seems to me that in this motion we are not directly aiming a blow at Collie, because there is no reason why Collie coal should not be used in the outlying portions of the railways where it would not be likely to endanger farms, where the railways run through scrubby country, and where there is no dry grass so easily ignited as in the districts where trains run through growing crops not yet harvested, and where, in spite of all the firebreaks made by the department and in spite of the breaks made outside the railway fence by individuals owning property along the lines, we still see fires along the line. It was simply through a fire I saw started by an engine yesterday morning that this matter was brought before me, causing me to move the motion at this juncture. I feel sure I shall have the support of members. I do not wish to waste more time than is necessary. I feel that I have strong evidence, after the fires that have just taken place where heavy damage has been caused by the use of Collie coal.

HON. C. E. DEMPSTER (East): I have much pleasure in supporting this motion, because I feel it is desirable that some steps should be taken to prevent the use of Collie coal on engines passing through any agricultural or pastoral districts. I can assure members that the week before last at Chidlow's Well three fires sprang up through the sparks from coal used in railway engines. Within a chain, one after another wherever there was a bit of grass a fire sprang up; and it struck me how dangerous it was to use this coal on engines running through districts where the grass is as it is now. From Clackline to Kellerberrin it is grassy country, and these sparks set fire to the country in the way I saw. I think it is of the utmost importance that the railways should be prevented from using Collie coal in these districts. To use it

there may mean ruin to hundreds of persons. It is all very well to attempt to burn off a chain away from the railway, but these sparks cause fires 60 yards away from the line.

HON. T. F. O. BRIMAGE (South): Each year since I have been in the House this question of sparks from railway engines has been brought up in the summer. We should have some evidence from the gentlemen bringing this matter forward that it is absolutely the engines that cause the fires. We had a Commission sitting last year with regard to locomotive spark arresters, and there was a lot of expense in regard to that Commission to see if spark arresters were the right thing to have on locomotives, and consideration was given to many patents. I believe that the present arrester as used by the locomotive branch is absolutely spark-proof. Sparks have to go through a $\frac{1}{4}$-inch mesh. I have questioned one or two people about this matter, and they tell me that the spark arresters approved of by the Commission are not in use on the locomotives, and that they had been taken off because the department could not get up steam with them on the engines. If that be the case the Government should look into the matter and see if a spark could get away direct from the firebox. In reading the report of that Commission, I find there is no doubt that the arrester approved of by the Commission was absolutely spark-proof. Every year we have this matter brought before us, and I think the time has come to go a little farther and have a committee of the House to look into the matter. I have seen the whole of the country ablaze from north of Chidlow's Well, and have felt the fullest sympathy for the people in the country having their crops burnt in this way. There is doubt in my mind as to whether these fires are caused by the engines, or by some careless person about the place. For that matter I should like to see farther inquiry. If the Minister will move to look into the matter during recess, I shall be happy to support him; but every year we have the matter before the House, and the agricultural members always blame the locomotives. Personally I am a little sceptical as to whether it is always the locomotives that cause the fires.

HON. W. MALEY (South-East): The hon. member has considerable technical knowledge which I do not possess in regard to spark arresters; but if we could try some means by which we could arrest the fire once it has left the engine and prevent it doing any damage, we would be doing something considerable in the interests of Western Australia. No doubt the sparks do leave the engine and set a blaze to the grass in the vicinity, and many of our bush fires arise from sparks of engines. It is not only so with Collie coal; it is so also in the Eastern States, where Newcastle coal is burnt. I do not for a moment imagine that the fires which have occurred lately are entirely due to sparks from engines. Fires have occurred in many districts and in close proximity to my property, which have not been caused by sparks from engines setting light to the grass. However, while it is not always the case, it is very often the case that sparks do set a light to the country; and we see now the immense damage which has recently occurred in the Eastern districts, where one settler has had his home, his stock, his fencing, and his grass all devastated by a bush fire—a settler who recently to my knowledge paid £20,000 for his property. Such cases compel us to consider some means for preventing bush fires. A spark arrester may be all very good in its way, but I trust in future the Government will, as I have suggested, use the plough on every occasion to plough along the railway lines to prevent the grass from growing, and by that means prevent a fire from spreading. It can be done to a very large extent in agricultural districts where the danger to property exists. It is a question that is not only prominent here but through all Australia. The climatic conditions are such as to entail great responsibility on Parliament to devise some means of preventing such a disaster as has occurred. The extent of the damage done we do not know at present, but it is considerable. I trust the House will pass the motion, which in itself may be harmless, but which certainly is a step in the right direction, and I trust that members will give to it every consideration.

On motion by HON. C. SOMMERS, debate adjourned.

PUBLIC SERVICE BILL.

SELECT COMMITTEE'S REPORT.

HON. W. KINGSMILL brought up the report of the select committee appointed to inquire into the Public Service Bill.

Report received, and ordered to be printed with the evidence.

BILLS, THIRD READING.

1 Kalgoorlie and Boulder Racing Clubs (private), 2 City of Perth Tramways Act Amendment.

NORTH PERTH TRAMWAYS BILL.

SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew): In moving the second reading of this Bill, I may say that it merely confirms a provisional order following on an agreement entered into between the North Perth municipality and the Perth Tramways Company, by which it is intended to connect North Perth with the city tramways at Bulwer Street, and to carry the line along Fitzgerald Street, Forrest Road, and Walcot Street, and to connect with the Beaufort Street line at the city boundary, making a circuit from Bulwer Street to Beaufort Street. There are provisions as to the time of starting and the time for completing the work, and the distance that wires must be fixed from balconies. There are provisions for preventing water and gas pipes from being destroyed by the electric current, also other provisions similar to those contained in the Bill which was passed yesterday.

HON. R. F. SHOLL (North): I notice that in this Bill, as in the other Bill, Clause 5 contains a provision for the protection of the telephone service. It has been brought under the notice of the Government, and is generally recognised, that where tramways cross gas or water mains the electric current has a corrosive effect and is likely to be a source of danger to public safety. I cannot deal with this point technically, but I understand that when the current gets into gas mains especially, it may enter the houses of persons using the gas, and so become a serious danger to life. There is no doubt that the electric current acts in a very destructive way in regard to pipes, and deteriorates them considerably; so if there is any danger to life, though I am not prepared to say there is danger, the Government should take means to insist on proper protection, the same as they protect the telephone service. I make this suggestion so that it may be looked into.

THE MINISTER: Paragraph 11 of the schedule deals with it.

HON. R. F. SHOLL: I did not notice that.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

VICTORIA PARK TRAMWAYS BILL.

SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew): In moving the second reading of this Bill, I wish to point out that it is in some respects a different proposition from those previously passed for confirming provisional orders. This Bill gives to the Victoria Park municipality the right to construct tramway, but on principles different from those laid down in the Bills previously under consideration. The municipality some time ago approached the Perth Tramways Company with the object of inducing the company to lay down tramways to connect their system with the municipality of Victoria Park; but the company, after going into the matter, found that it would scarcely pay them to undertake the construction of a tramway to that suburb unless the municipality made some material concession to the company. Negotiations followed, and eventually the municipality agreed to raise a loan of £5,232, and the company to find the remaining amount, about £3,000.

HON. J. W. HACKETT: What is that to do?

THE MINISTER: For the construction of the tramline.

HON. J. W. HACKETT: How much of it?

THE MINISTER: I do not know to what extent. It was agreed that the company should lease the tramway for seven years, and pay rent for the use of the line equal to the interest on the amount of loan raised by the municipality, plus two per cent. sinking fund.

It was provided that after seven years the company should have the right to take over the tramways. This may not be a very wise arrangement on behalf of the municipality; but I do not know whether that is a matter which should be considered by this House. Arrangements have been made by which the Victoria Park municipality shall pay to the Government £120 a year for the use of the Causeway over which the line runs. The Government had to go to some expense in widening and strengthening the Causeway, to enable the tramway to run, and in consequence of that expenditure the Government demanded from the municipality a rental of £120 a year, and that amount has to be contributed. The right is also reserved to the Government to give to other companies a power to use the Causeway for tramway traffic whenever it may be thought desirable to do so. It is probable that in the near future the South Perth municipality may wish to use the Causeway for a tram service connecting with their municipality, and the Government wish to be in a position to give them the right to do so. I beg to move that this Bill be now read a second time.

HON. R. F. SHOLL (North): I think this line is already in course of construction over the Causeway. It seems to be an absurdity for the Government to bring a Bill down to this House asking for the right to construct a line that is already in course of construction. I am not so certain whether the Causeway has been widened. I think a portion has been taken off for the purpose of the tramway, and this makes it now a source of danger to the travelling public. It appeared to me, in crossing the Causeway the other day, that a certain portion of the Causeway has been taken for the purpose of the tramway. I think we ought to have a little more information as to the widening of the Causeway, and as to the commencement already made in the construction of this tramway. The Government are to receive £120 a year as rental for the use of the Causeway; but it must have cost the Government a large sum of money to do that work. The principal objection I have is to the Government coming down here asking for a right to build a tramway when the tramway is already being constructed.

HON. C. SOMMERS (North-East): I do not agree with the last speaker. The Causeway has certainly been strengthened, and a tramline laid across the wood-work; but the bridge has been widened as regards foot traffic only, so as to leave more space for vehicular traffic. The tramline was laid so as to avoid redecking the bridge. In any event, I fear that the Bill is badly needed. A large population on the far side of the river is without tramway communication. At one time 'buses were employed of a primitive type; then motor cars, which were not at all successful; and now, with the consent of all the inhabitants, the municipality asks for a tramway. It is desirable that the Bill should pass, because it will provide communication, not only with Victoria Park, but with South Perth, and through the Belmont Roads Board District to the Racecourse. Rails have been laid across the bridge; but they have not yet been laid in the municipality of Victoria Park. I trust that in the interest of the people who have bought land and built houses on the other side of the river, the Bill will pass.

HON. R. D. McKENZIE (North-East): I agree with Mr. Sholl that the Minister should have given us some information as to the cost of widening and strengthening the Causeway, and an assurance that the Government will have some power to compel the payment of rent referred to. We have heard ere this of municipalities repudiating such payments; and as the tramway is to be in the hands of the company and the municipality, I should like an assurance that there will be no difficulty in collecting the rent.

HON. T. F. O. BRIMAGE (South): I notice that the fare from the terminus in Subiaco to the terminus in Victoria Park is 5d. The maximum fare on the Perth tramways is high enough, and the fare in this Bill should be reduced to 4d. I agree with Mr. Sholl that we should have more information regarding the Causeway; not that I regret its being strengthened, because it certainly seems a rather rickety bridge; and now that tramways are to cross it, perhaps it is well it should be strengthened.

HON. W. MALEY (South-East): I do not intend to oppose the second reading; but I think the Causeway altogether too narrow for the traffic which it has now to carry, to say nothing of the prospective tramways. A certain portion of the Causeway has been railed off for pedestrians; and if in the past it has been found necessary to protect them by rails, owing to the narrowness of the bridge, it should be considerably widened before tramcars are allowed to cross it and to impede the other vehicular traffic. I fear there will be much congestion, especially at holiday times, and that the Causeway will not be wide enough to carry all the traffic including the trams. Victoria Park is sure to become a large suburb, so that the traffic will increase rather than diminish. We should look to the future; and before passing such an important Bill, should have some assurance that the Causeway will be sufficiently widened to carry the traffic, and some understanding as to the terms and conditions of the agreement.

HON. J. W. LANGSFORD (Metropolitan-Suburban): I hope the second reading will be passed. The Victoria Park municipality have made various attempts to get communication with the city. I understand from the Minister that certain moneys are to be provided by the municipality and other moneys by the tramway company; and that at the end of a certain term the tramway company will have the right to take over the whole of the plant and line. The rents mentioned do not appear in the Bill or in the schedule.

THE MINISTER: I never anticipated any strong objection to this measure, or that farther information would be required. I supplied the House with the information furnished to me. If more information is needed, the matter will have to be postponed; and those responsible for postponing it must take the responsibility if the measure is therefore lost.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1 to 5—agreed to.

Clause 6—Postponed till after the schedule.

Schedule—Provisional Order:

Paragraphs 1 to 7—agreed to.

Paragraph 8—Workmen's tickets:

HON. T. F. O. BRIMAGE: This paragraph provided for the issue of workmen's tickets between the hours of 6 and 8 a.m. So that clerks might take advantage of these tickets, he would like to have the word "eight" struck out and "nine" inserted in lieu.

HON. M. L. MOSS: The hon. member could not cut an agreement about. If it was desired to amend the agreement, that must be done by a clause in the Bill.

Schedule put and passed.

New Clause—Rental in arrear:

HON. M. L. MOSS moved that the following be added as a new clause:—

> In case the promoter referred to in the provisional order shall fail to pay the rent provided for in Clause 19 thereof, the Colonial Treasurer shall and is hereby authorised to pay to the Minister for Works the rent in arrear, and deduct the same from the subsidy on rates which the promoter is entitled to receive from the Colonial Treasurer.

Question passed, the clause added to the Bill.

Postponed Clause 6—agreed to.

Title—agreed to.

Bill reported with an amendment.

RECOMMITTAL.

On motion by Hon. M. L. Moss, Bill recommitted for amendment.

Clause 2—Confirmation of Provisional Order:

HON. M. L. MOSS moved that the following be added to the clause:—"Subject to the amendment set forth in Section 6 hereof."

Amendment passed, and the clause as amended agreed to.

Bill reported with a farther amendment, and the report adopted.

BILL, FIRST READING.

NORTH FREMANTLE STREETS DEDICATION, received from the Legislative Assembly.

BRANDS BILL.

SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew) in moving the second reading said: This measure has on more than one occasion been brought before this Chamber towards the end of the session, and there has not been sufficient time for

its consideration, consequently it has been shelved. The reasons for the Bill are real and urgent. There has been no material amendment of the Brands Act since 1881, and all will admit that there have been very changed conditions since 1881. There is an increased number of stock in the State, and the number of stock owners has increased also, which makes it incumbent upon us to pass some amendment in view of the reasons which I propose to give. Under Clause 5 the brands existing up to the present time may still be used, so that the brands to which some value are attached will not be interfered with. It is absolutely necessary for an alteration in the law at present, for it is compulsory that a copy of all registered brands of the State shall be published annually in the *Government Gazette*. In order to publish these brands in the *Government Gazette* blocks would have to be manufactured, and the cost of these is estimated at from £1,500 to £2,000, there being no limit to the brands now employed. Any form of hieroglyphic can be used. In advertising stock there has always been a great difficulty in the reproduction of the brands in a newspaper, and unless the newspaper has some block which will faithfully reproduce the brand, the only thing that can be done is to try and describe the brand by use of words. By Subclause 2 of Clause 6 it will be seen that earmarks are to be made on the opposite ear for males and females. This may not seem necessary, but it is necessary in order to facilitate drafting. Under the old Act separate brands could be used for horses and cattle, but under the new Bill only one brand is allowed for horses and cattle, doing away with a number of brands. A breeder who has more than one run can have separate brands or earmarks for each run, possibly on account of one station being more suitable for breeding stock than another station, and the value of the stock on one station being greater than the value of the stock from another station. The earmark on sheep must not exceed three quarters of an inch. Clause 10 provides that the person imprinting the first brand upon any horse or head of cattle may imprint any numeral or numerals on the cheek to denote age. This will enable a person to tell the age of stock at a glance. Paragraph (*b.*), branding on the neck is also a good provision, especially now so many stud stock are kept. By Clause 12 it is not compulsory on a breeder of stock to mark the age; but he may do so, and the mark does away with a great deal of labour. By Clause 15 there is a reduction in the fee chargeable upon registration of the brand to the extent of 2s. 6d. The amount was originally 10s. and is now reduced to 7s. 6d. Although I notice the schedule has not been altered, a consequential amendment is necessary. The schedule should have been altered in another place. Clause 18 is very necessary. At present a great number of brands can be registered which are almost identical. In fact I have been told of cases where there are identical brands. Clauses 19 and 20 deal with the publication of brands in the *Government Gazette*. I think that is a matter of very great convenience. Clause 21 apparently does not get over the difficulty at the present time with regard to those old signs registered for brands. It is a matter for the consideration of this House whether that should be amended or not. If we have to reproduce the old brands annually the cost will be £1,500 to £2,000; and though only the first expense, it is a matter for consideration. Clause 23 is practically the same as the old provision, and is absolutely necessary, as many brands are worth a considerable amount of money. In fact many stock-owners regard their brands as a sort of trade-mark. Part V. relates to the rules of branding. I think Clause 26 is one of the most valuable in the Bill. Under the old system, if a horse had several brands, it was impossible to tell who was the last holder, whilst the brands could be put on promiscuously; but the new Bill provides that each owner will have to brand in regular order. The first brand must be on the near shoulder if there is room, the next owner must brand underneath the first brand, or if there is not room on the near shoulder he must brand on the off shoulder, then on the near ribs, then on the off ribs, then on the near quarter, and then on the off quarter. In the case of cattle, they must be branded first on near rump or near cheek, next on off rump, third on near shoulder, and fourth on the off shoulder. It will be seen that through this

arrangement that the holder of stock will be able to identify those who had been owners of the stock. Clause 27 provides that proper instruments shall be used for earmarking. In the case of sheep a very different mark from what is intended might be caused. It is provided by this Bill that certain instruments shall be used. Part VI. relates to inspection. At present there are no inspectors, but in all probability the stock inspectors can be used for this purpose; therefore I do not suppose there will be any cost in administration as far as that is concerned. Part VII. deals with the sale of unbranded stock by advertisement in local papers and the *Government Gazette*; that is, only in the case of unbranded stock. Unbranded stock are *primâ facie* the property of the Crown, and there should be no necessity to advertise them except in the *Government Gazette*. Under Clause 41 the poundkeeper has to brand all stock impounded before delivery. Clause 43 is intended to prevent cattle-duffing and horse-stealing. On page 15 there is an error in the schedule. The fees are set down at 10s., whilst in the body of the Act they are set down at 7s. 6d.; so an amendment will be necessary. I beg to move the second reading of the Bill.

HON. C. E. DEMPSTER (East): I have pleasure in supporting this Bill, because I think a measure of the kind is necessary. At the same time I think there are a few amendments which we should keep in view, and I will touch on some of them. It is said here that every brand that is registered for horses and cattle shall have two letters and one numeral. Why should there be two letters and one numeral? I do not see why one letter should not be all that is required, with a numeral. In regard to sheep, it seems to me as a sheep-owner that the ear is a very small place to mark on. I have often found the nose a most desirable place to brand sheep on. It is impossible to find a distinct mark for every sheep-owner. Then with respect to the brand, it says that for horses there shall be only one brand, and that for cattle there may be two separate brands. They must have distinct brands for horses and cattle, and it says that no brand is to be smaller than an inch and a-quarter. That is quite right. I do not think any brand should be smaller than that. At the same time I do not think any brand longer than three inches should be allowed, because when stock are branded early these brand-marks grow. The Bill says that no ear-mark shall exceed three-quarters of an inch in length. Three-quarters of an inch takes an appreciable bit out of a sheep's ear. I say that, irrespective of brands, the use of numerals should be allowed, especially for numbering the year in which stock are foaled, or to number the stock. I do not think there is anything to object to in that. There is a provision here about having one ear reserved for the age mark. I think from experience that it is more important to have the sex mark than the age mark; because when you are drafting sheep you want to separate ewes from wethers, and you have only to look at the sheep and see whether the right or left ear is marked, to know if an animal is a wether or a ewe; and you can separate the animals easily in that way. The age of sheep has under this measure to be denoted by the number of notches; but as that is not compulsory, no one will be obliged to adopt that system of marking. I am not satisfied with the manner in which stock are to be impounded, for it seems to me a great injustice is likely to be perpetrated under the Bill. When stock are being travelled from one district to another, they may be a considerable distance from the owner, and if some are lost they may be impounded; so unless proper steps are taken to find out the owner they may be sold without the agent, drover, or owner knowing anything about it. I repeat that I do not think there is sufficient protection. When the nearest justice has been informed that certain stock have been put into the pound he should take every means in his power to let the agent, drover, or owner know that the stock are impounded, and it should not be possible for stock to be sold without the owner's knowledge. Owing to the time specified in the Bill, the owner may suffer very severely through his stock being sacrificed. I think this clause should be looked into carefully in the interests of those owning stock. Provision is made for stock to be sold within twelve days after notice given by advertisement. I think the number of days might be increased to twenty-one, because the

stock may have strayed a considerable distance. In any case I do not think it is right in the interests of stock owners for it to be possible for stock to be sold without their having any opportunity of claiming the stock. I do not think there is any other item to touch on. The Bill is a very important one.

On motion by Sir E. H. WITTENOOM, debate adjourned.

THE MINISTER: You have shelved the Bill.

LOCAL COURTS BILL.

COUNCIL'S AMENDMENTS.

The Assembly having disagreed to five amendments made by the Council, the Assembly's message was now considered in Committee.

No. 3—Clause 29, strike out the last paragraph:

THE MINISTER FOR LANDS moved that the amendment be not insisted on.

HON. M. L. MOSS: This was an innocent little subclause, which afforded an opportunity to the stump orator who held forth in the Arbitration Court to get the resident magistrate to hear him, and it would lead to a waste of the magistrate's time. On every occasion where a party sent another person to represent him in the court, that party was paid for his services; but this proposal would incorporate in the Bill a principle existing in no other part of Australia or in England. It was introduced in another place by a private member.

HON. F. M. STONE hoped the Council would insist on the amendment. If not, we would be simply putting money into the hands of the legal profession and be placing inconvenience on the public by the time taken in the conduct of cases in the Local Court, and in regard to the expenses the public would be put to at the court by allowing some agitator or perhaps a dismissed person practising as a Local Court advocate to appear in these courts. The ignorant would employ this class of man, and the man of education who employed a solicitor would suffer. Cases would get into such a tangled state that clients would have to go to the legal profession in the end. Agents could now appear in person, and could receive as witness fees more money than was allowed to counsel in small Local Court cases.

HON. S. J. HAYNES opposed the motion. The clause would be to the prejudice of the general public, and would encourage litigation of the worst kind. Members of the legal profession deserving to be on the roll invariably discouraged litigation for small amounts; but if the bush lawyer and agitator were to be allowed to practise at court it would create litigation of the worst description.

HON. C. SOMMERS: We should insist on the amendment. The procedure that would be permitted by the clause would prove the most expensive.

Question put and negatived, the Council's amendment insisted on.

No. 4—Clause 5, strike out the whole:

THE MINISTER moved that the amendment be not insisted on.

HON. M. L. MOSS opposed the motion. With the class of magistrates that we had we should not extend jurisdiction to £250, but we should rather adopt the principle of Circuit Courts and appoint another Judge.

Question negatived, the Council's amendment insisted on.

No. 8—Clause 108, strike out paragraphs (*a.*), (*b.*), (*c.*), (*d.*), and (*e.*), and insert "in any action or matter:"

THE MINISTER moved that the amendment be not insisted on.

HON. F. M. STONE hoped the amendment would be insisted on. There were many cases where a principle might be involved in a small sum. That had been forcibly brought under his notice by a case which he had last Monday under the Workmen's Compensation Act. In that case the amount involved was only 24s. a week; but it involved really an amount up to £300, being the limit of the Act. This amendment made by another place would take away the right of appeal except by leave of the magistrate, under the Workmen's Compensation Act; and if the case he referred to had occurred in the Supreme Court, under the provisions of this Bill there would have been no right of appeal to the Full Court, nor from that to the Federal Court. Such an instance as he mentioned could not have been considered by those members of another place who desired this amendment to be made in the Bill, or they would not ask us not to insist on our amendment.

Question negatived, the Council's amendment insisted on.

No. 9:

THE MINISTER moved that the Council's amendment be not insisted on.

HON. M. L. MOSS did not wish to stand out against the action taken in another place, though he regretted it.

Question passed, the Council's amendment not insisted on.

No. 13:

HON. M. L. MOSS moved that the Council's amendment be not insisted on, because the effect would be to leave the law as it was now. He understood that Mr. Randell, who was responsible for the amendment being made, did not object to the action of another place.

Question passed, the Council's amendment not insisted on.

Resolutions reported, and the report adopted.

A committee, consisting of Hon. M. L. Moss, Hon. F. M. Stone, and Hon. R. Laurie, drew up reasons for the Council not agreeing to amendments 3, 4, and 8.

Reasons adopted, and a message accordingly returned with the Bill to the Assembly.

At 6·34, the PRESIDENT left the Chair.
At 7·35, Chair resumed.

NOXIOUS WEEDS BILL.

ASSEMBLY'S AMENDMENTS.

Schedule of seven amendments made by the Legislative Assembly now considered in Committee.

Amendments agreed to without debate.

Resolution reported, and the report adopted.

LAW OF LIBEL ACT (IMPERIAL) ADOPTION BILL.

SECOND READING (AMENDMENT).

Resumed from the previous day.

HON. F. M. STONE (North): I can congratulate Mr. Wright on the manner in which he has introduced this Bill, but I cannot say I can congratulate him on the way in which he has been advised in drawing up the Bill. If we look at the title it says, "an Act to adopt certain improvements made in the law of England, and to amend certain defects in the law of Western Australia respecting libel." If he would give the Bill this title, "An Act to create a muddle in the law of libel in Western Australia and put money into the pockets of the lawyers," that would be a better title to the measure, and I think I will be able to show members what I mean. I have a strong objection to a Bill which adopts an Imperial Act holus bolus. In the past we have had Acts adopting Imperial statutes in that way; but I think that time has passed by. In the recent legislation we have had before us it has been usual not to adopt Acts in that manner, but to adopt them section by section, and for two reasons. If we adopt an Act holus bolus, it means that every magistrate in the State has to be supplied with a set of English statutes, and when reference is made to an Act the magistrate has to look up the Imperial statute to see how the law applies. Certainly we have Chitty's Statutes, which curtail the Acts, but in many cases in Chitty, Acts are left out by reason of the repeal of some of the statutes that apply here by Imperial legislation. Therefore we have to have the whole set of English statutes before we can see what the Act adopted is. There is another objection to adopting Acts holus bolus. Often we find that the Act does not meet the circumstances, or some mistake is made in adopting it; that creates a muddle, and we find that actions are very costly. If we were to pass this Bill, a muddle would be immediately created. We have only to look at the first section of this Imperial Act proposed to be adopted, we see in the construction of the Act the word "newspaper" will have the same meaning as in the Newspaper Libel and Registration Act of 1881, that is the Imperial Act of 1881. We have never adopted in this State the Newspaper Libel and Registration Act of 1881, but we have the Act of 1884, which defines what a newspaper is. There will be two definitions, one under the Newspaper Libel Act of 1884 and the definition of newspaper under the proposed Bill. When Judges are asked to construe the meaning of newspaper, they will say that "newspaper means newspaper under the Libel and Registration Act of 1881"; therefore the Bill is sweeping away what

the construction of a newspaper is, and creating a muddle. Another section relating to criminal matters says Section 3 of 44 and 45 Victoria is repealed. Confusion at once takes place. We have in the Criminal Code Act a dozen or 15 sections dealing with criminal prosecutions in regard to libel. We have never adopted 44 and 45 Victoria here; so immediately the question arises, how are we to proceed? Does this directly repeal the Criminal Code Act? If it does, how shall we proceed under the Bill? That shows how ill-advised the hon. member was in drawing up this Bill, and how necessary it is before adopting an Act holus bolus that we should look into sections of that Act and the local statutes, and see whether they conflict. Clause 1 adopts the Law of Libel Amendment Act of 1888, and it says, "the same shall be applied to the circumstances of the State." How is a Judge to construe that? Did one ever hear such "rot"? Here we are asked as reasonable men to adopt an Act of this kind. Already I have pointed out the absurdity of adopting an Act holus bolus, and then it says, that "the Act shall be applied to the circumstances of the State." Solicitors will not know where the law of libel has got to, or how to advise a client in bringing an action against a newspaper or a paper when an action is brought against it. Under what circumstances can a lawyer construe the Act of 1881? This Bill looks very simple on the face of it, but when the member gave us some reasons why he introduced it he said that under the present law, the 1888 Act, there was a provision that if by affidavit a Judge was satisfied that a plaintiff had no means to satisfy costs in a case, the newspaper could obtain an order against the plaintiff, and the Judge will make an order that security for costs be given. That was one of the reasons why the section was introduced, so that the Act could be repealed. It also repeals two other sections of the Act of 1888, and Clause 2 applies to the case of a plaintiff bringing an action being bound to go into the witness box and be subjected to cross-examination before he can proceed with an action. Clause 3 says that no action can be brought against a newspaper unless it is brought within four months of the date of the publication of the libel complained of. These are the three sections that this Bill is driving at. The law of libel is indicated by the two Acts of 1884 and 1888. It is almost similar to the law of libel in England with the exception of the sections I have referred to. If several actions are brought against several newspapers in reference to the same libel, under a section of the 1888 Act an application can be made to consolidate those actions, and the costs and the verdict are divided amongst the different parties. There is a section that if a person who is libelled brings an action against a newspaper to recover damages in an action against another newspaper, it can be brought forward in mitigation of damages that the person libelled has already received damages from another newspaper in respect of the same libel. With the exception of these two provisions and the other two sections mentioned, the law of libel here is the same as in England. Objection has been taken to the section dealing with the security for costs. That section has now been in force for 16 years, and I remember well the reasons why the section was introduced and the two subsequent sections. I will tell the House, from my experience in acting for parties who have brought actions against newspapers and by acting for newspapers themselves, that the section has dealt no great hardship. Members will remember there is also the right to institute proceedings. Supposing a person is unable to find security for costs, there is nothing to prevent that person from going to the criminal side of the court and getting a remedy there. Notwithstanding that section serves to give security for costs, I think Judges in several cases, and this can be borne out by one member of the House, have refused to compel the person to give security for costs in consequence of the seriousness of the libel. Notwithstanding an application, although it has been proved the person was without means, the Judge has, in consequence of the seriousness of the libel, refused to grant the application for security for costs. To my mind that section is discretionary on the Judge. I feel sure if there is a serious libel, and if the person libelled is asked to give security for costs, the Judge will take into consideration the

seriousness of the libel before compelling the person to give security for costs. It is in very trumpery cases that the section works well. I think newspapers are entitled to some protection. The public are under a great boon to the newspapers for the news and reading matter they contain, and if a newspaper is to be liable for every small slip it makes—to be rushed into an action and have to bear the brunt of the costs—I think it is the duty of the House to see that such newspaper is duly protected. I know of trumpery cases, and I will mention one where this section stopped the proceedings. It was a case that occurred in the police court of Perth. There were three or four boys charged with stealing lollies, and a young fellow was also charged at the same court with embezzlement. In the newspaper the four boys and the young fellow were mentioned as having been charged with stealing lollies, and the case was dismissed. It appears that instead of the young fellow being charged with stealing lollies he was charged with embezzlement, and his case was dismissed. Because it appeared by a slip of the reporter that this young fellow was charged with the boys, although his name was included on the charge-sheet, he brought an action for libel. He said, "True, I was charged with embezzlement, and was dismissed on that day, but you charged me with stealing some lollies. True, both cases were dismissed, but because you charge me with a minor offence than embezzlement I shall proceed against you for libel." This person got a solicitor to take up his case. The newspaper asked the Judge for security for costs. An order was immediately made, and I think the House will admit that in such a case the Judge was bound to make it, and they did not hear anything more about that action. Still, that paper was obliged to pay the cost of meeting that writ and making this application. These persons had no means. I have been told by a gentleman connected with the Press, I think for 16 or 17 years, that during that time his paper has been mulcted in costs, that is to say the proprietors had to pay costs, to the extent of six or seven thousand pounds, in having to defend actions of this sort, yet not a single case has been decided against the editor of the paper. It seems that it is simply a case of levying blackmail against the papers for these little slips that are made, and that was the reason why this clause was introduced 16 years ago and passed in the Legislative Council of this State. At that time the papers were flooded with threatened actions. People said, "Here is a chance. I may have a sympathic jury and I will go for the paper; at any rate I have nothing to lose, I have all to win, and they will pay us ten, fifteen or twenty pounds to settle it." It was in consequence of this that the law was passed, so as to prevent blackmail against papers which made such a slip. The hon. gentleman made a statement that it was by reason of a gentleman well known bringing an action against a paper, which was mulcted in £800 damages. It was nothing of the sort. Up to that time all a plaintiff had to do was to go into court, throw the paper into court and say, "There is the libel." One had to fight it, either to show that it was the truth or to plead privilege, or adopt some other defence. It was thought at that time that this was a great hardship, Why should not the plaintiff go into the box and say, "I have been libelled," and allow himself to be cross-examined upon that libel.

HON. M. L. MOSS: And general character too.

HON. F. M. STONE: And, as pointed out by my friend, cross-examined as to his general character, which might go towards mitigation of damages. I thought then and I think now that section is necessary, and that the section has worked well. If a plaintiff has a good cause of action for libel he does not hesitate to go into the box and allow himself to be cross-examined; but if he has a trumpery case and wishes to make money out of the paper, he tries to draw the paper into court and leave it to the jury to give him damages. Section 5 provides that a libel case shall be proceeded with within four months of the date of the publication of the libel. I think members will see how necessary it is that actions against papers carrying on a large business, having numerous correspondents, should be tried within a reasonable time. Up to that time the law was that any action could be brought within six years. Just fancy a man bringing an action

against a paper after five years! Manuscripts may be gone and the witnesses gone, and everything about it, yet one could rake the matter up and bring it into court. The manuscript might be destroyed and the man who knew the information was correct might have gone away, and what would be the position of the defendant in such a case as that? If a man has been libelled he is only too anxious to go for the paper at once while the thing is fresh before the public mind; he is anxious to go into court at once and clear his character, and it gives a better chance of having manuscript preserved and for witnesses to be called for the defence. This is a Bill which proposes to repeal these sections. I think I have shown these are good sections. There have been no outcry as far as I know. There have been no case of injustice and no outcry for the repeal of the Act. One of the reasons why they did not pass this section in England was that under the County Courts Act if an action for libel was brought and it appeared that the plaintiff had no visible means of support, the Judge instead of allowing that man to go to the Supreme Court referred it to the County Court. The County Court Judges are men of long standing at the bar, and they have tried these actions for libel under these circumstances; though perhaps under the circumstances we have here in this State it would not be advisable to refer a libel case to a magistrate. I say it has worked well from my experience, which is a considerable experience now, both to the plaintiff and the defendant. I see no reason whatever why this House should be asked to amend it; therefore I move:

That the Bill be read a second time this day six months.

HON. J. W. HACKETT (South-West): I rise to speak on this matter mainly because I have a right to ask for information, and also because I have some experience of a considerable number of libel actions in which I have been mostly successful. A libel action of a proper kind, and suitably conducted, and for a public purpose is one of the most valuable advertisements a newspaper of a good character can have. That is my experience. But I am not going to debate this matter. I do not suppose the hon. member who introduced it thinks for a moment that it will be taken seriously. Even if it were a serious measure it would be impossible to consider it. But from the form in which it has been drawn I take it there is no evidence that he wishes to do more than give the House an opportunity of discussing this question as an abstract one. If any member will look at the Bill, I venture to say he will admit that a claim for originality can be made. I have been some 13 or 14 years in Parliament and have been a close observer of Parliamentary proceedings, and of the drafting of Bills in other countries for many years more, and I venture to say that nothing like this has ever been presented to a legislative body before. The Bill consists of two clauses, one, which adopts an Act of the United Kingdom which fortunately has its name given "The Law of Libel Amendment Act 1888," or else one would not even know what Act was referred to; and that is all the information which is given to this House with regard to the Imperial legislation so far as it may be derived from this Bill, that there is an Act called the Law of Libel Amendment Act 1888. Of this Act we do not know any clause or any provision or any enactment therein contained. It is declared by this Bill which I hold in my hand that this Law of Libel Amendment Act shall in every clause, provision, and enactment therein contained be adopted and strictly applied in administering justice so far as the same can be applied to this State. So careful and so precise is the draftsman that every comma in the Imperial Act shall be adopted in Western Australia, he is careful to say that every clause, provision, and enactment therein contained shall be hereby adopted; but he does not think it in the smallest degree necessary to give any information of any clause, provision, or enactment therein contained. If it were for no other reason than respect for the way legislation should be introduced into this House, I take it the Legislative Council would be bound to reject this Bill. At all events when we are asked to legislate on an all-important question such as the law of libel, especially where it affects the rights of individuals and the liberty of the Press, we can ask the draftsman to show forth

in the Bill the legislation he proposes to ask us to adopt; but with a supreme indifference to the drafting of Bills and an absolute disregard of what this House has a right to claim and demand, full information, the draftsman simply informs us that the Law of Libel Amendment Act in every clause, provision, and enactment is hereby adopted and directed to be applied in the administration of justice so far as the same can be applied to this State. My hon. friend, Mr. Stone, has referred to that absolutely absurd phrase, "so far as the same can be applied to the circumstances of this State." What are the circumstances of this State to which the same can be applied? Are they the circumstances which relate to the administration of justice or to the position of the defendant or the grossness of the libel, or what? The circumstances I suppose are to be left to the Judge, or perhaps to the draftsman of the Bill itself. They could be left to the jury, or perhaps the defendant and plaintiff are to agree between themselves as to the steps to be taken. We are left in a nebulous condition and are allowed to suppose anything, but forbidden to be certain of anything. The second clause declares that the Newspaper Libel and Registration Act Amendment Act 1888 is hereby repealed. There is no doubt this is a very imperfect measure. I notice that the title of this Bill is contained in three and a half lines, and recites that it is to adopt certain improvements in the law of England and to amend certain defects in the law of Western Australia; but suppose we desire to amend certain defects in the law in England, we have nothing to work upon. My hon. friend, by the attitude he has adopted, shows this is a huge joke. It is a practical jest played at the expense of the Legislative Council.

HON. J. W. WRIGHT: I thought it would touch some of you on the raw.

HON. J. W. HACKETT: I think they are enjoying themselves hugely over this, though whether it is decent to institute a joke of this kind I leave the House to decide. When I ask concerning the defects in the law of England which this Bill is said to amend, we are at once met with the fact that we do not know anything about the law we are asked to amend. The legal aspect of the question must be gone into fully to get a perfect libel law—I do not contend that the English law is more perfect—and it will require the greatest consideration. The first step in framing such a Bill, if it is to be an improvement on our own very admirable legislation, would be to send it to a select committee and have the whole matter threshed out. Clause 2 provides that the Newspaper Libel and Registration Act 1884 Amendment Act 1888 is to be repealed, and the Imperial Act, with due regard to the circumstances of the State, is to be put into its place. Before it is repealed the House should remember that rights have grown up under the Act, and that we have adapted ourselves to our system, and that it has adapted itself to us. In no part of the world has the law of libel worked with such fairness, general equity, and full consideration for the rights of individuals, the Press, and the State, as in Western Australia since the passage of this much needed measure. As to the defects in our law, the main want is the absence of any provision for consolidating actions such as those referred to by Mr. Wright; but that defect is compensated for by so many excellent provisions in other directions that I venture to say that when the matter came to be seriously considered and not put forward as a device of humour, it would be retained plus some clauses forbidding the multiplication of cases on the same ground of action. I can give numbers of instances to show how well our Act works, and how badly the English Act works. I am aware of one case within the last few months here. There is one gentleman whom Mr. Moss has cut off from possibly lucrative practice in the subordinate law courts in this State by the cruel insistence that a magistrate should not give such reward to such unlicensed practitioners as may come before the said magistrate. This gentleman is a promising practitioner who no doubt, circumstances favouring him, in his intellectual worth raises his eye even as high as the Supreme Court bench; but Mr. Moss has cut away the first step of the ladder up which that gentleman may hope to rise. I strongly suspect that if we went back to the great origin of this Bill we should find that great and promising

practitioner's handiwork in it. That great practitioner recently took an action against a newspaper. It was not against the *West Australian*; I am not giving the name. He got his writ, but at this moment the case is being hung up. Action has been taken. He will have to prosecute it under our law in a short time, but is taking full benefit of the period the law allows him, and has not served the writ. He is holding it in reserve, If the English Act be adopted the writ will hold good for six years, and at the end of that period, when everybody else has forgotten the case and what it concerns and the existence of this great and promising non-practitioner except so far as that writ is concerned, he may serve it. This is one instance of serious injustice that may happen if this English Act were in this holus bolus way flung on the statute book without proper consideration. I recognise this to be a piece of fun, and while we make use of the fun of the moment we give information useful to the House. At the same time I do nothing but smile and in the meantime support the amendment to postpone the second reading of this most important amendment to our statutes.

Amendment passed, the Bill thus deferred six months.

EARLY CLOSING ACT AMENDMENT BILL.

IN COMMITTEE.

Clause 1, 2, 3—agreed to.

Clause 4 — Amendment of Section 11:

HON. G. RANDELL: This clause should be struck out. The petition before the House made out an excellent case against any alteration in the Act regarding hairdressers. Both employers and employees were satisfied with the present Act.

THE MINISTER FOR LANDS: The clause was not in the Bill introduced by the Government in another House; at the same time he would like an expression of opinion from the House.

Clause put and negatived.

Clause 5—agreed to.

Preamble, Title—agreed to.

Bill reported with an amendment, and the report adopted.

ROADS ACT AMENDMENT BILL (JETTIES, ETC.)

IN COMMITTEE.

Resumed from the previous day; Hon. W. KINGSMILL in charge of the Bill.

Clause 5—agreed to.

Preamble:

THE MINISTER FOR LANDS: It was intended to move to insert a new clause, but he had no desire to imperil the fate of the Bill.

HON. W. KINGSMILL thanked the Minister.

Preamble put and passed.

Title—agreed to.

Bill reported without amendment, and the report adopted.

ADJOURNMENT.

The House adjourned at half-past 8 o'clock, until the next afternoon.

Legislative Assembly,

Wednesday, 21st December, 1904.

MR. SPEAKER took the Chair at 2·30 o'clock afternoon (Tuesday's extended sitting having ended at the hour for luncheon).

PRAYERS.