

The State can enter, seize the mining property, and sell it by public auction or by private contract.

So on right through the speech, condemning wholesale the proposal which the Minister introduced, as far as the first part of the Bill was concerned, to help owners to develop their mines in time of difficulty.

THE MINISTER FOR MINES: Those objectionable portions have been removed from the Bill.

MR. THOMAS: Nothing of the sort has been done. The Minister has the right of reply, and he can then point out to me where those objectionable features have been removed. I have both Bills before me, I have gone through them line by line, and I cannot find out where this measure is amended in the direction the member for Guildford wished last session, and which I also wished. I say unhesitatingly a man could go to a bank, even the hardest bank in existence, and get better terms than the Minister offers under this Bill. It is absurd on the face of it that a company should give a mortgage over the whole of its assets, its property and everything else, and in return the Government should only advance a paltry sum on most excellent security, at a rate of interest in advance of which many banks would lend money if on similar security. It has been stated that they would not ask it of the Minister if they had a lot of machinery on their property. I claim that this would be just the time when they might want it. I was stating an instance where I was myself interested. In that we had mining machinery erected on the property to the extent of about £30,000 worth. We had spent £200,000 on that mine, and we had come to the end of our tether. The market happened to be bad at that time, and money could not be raised except on the most ruinous and extortionate terms; therefore, considering it was of such vital interest not only to ourselves but to the district, to the country, and to the mining industry, we applied to the Government to go with us pound for pound in sinking a shaft to see if we could find an improvement in the value of the ore which would allow us to put more men on that property. The Government would have made a good deal out of it had good ore been struck.

The company undoubtedly would, too, but the company would have refunded that money *plus* all interest, and the Government would not have lost that money excepting the shaft had gone down and proved that payable ore did not exist and the company had had to stop.

COUNT-OUT.

MR. PIGOTT again called attention to the state of the House.

[Bells rung; quorum not formed.]

THE SPEAKER: I have counted the House, and there is not a quorum of members. The House stands adjourned (11.4 o'clock).

Legislative Council.

Wednesday, 8th October, 1902.

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THE PRESIDENT took the Chair at 4.30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the **MINISTER FOR LANDS:**
 1, Western Australian Government Railways—Alteration to Classification and Rate Book. 2, Municipality of Northam—Amendment of By-law No. 20, Section No. 9. 3, Roads Act, 1888—By-laws of the Upper Irwin Road Board. 4, Land Act, 1898—Regulations restricting cutting of Timber. 5, Stock Diseases Act, 1895—Amended Regulations *re* importa-

tion of stock. 6, Permission to construct Timber Tramways by the Golden Horse-shoe Estates Company, Limited, Henry Teesdale Smith and Bruce Johnstone Henderson. 7, Papers in connection with the appointment and qualifications of the Government Clothing Inspector.

ASSENT TO BILLS.

Messages from the Administrator received and read, assenting to five Bills, namely the Perth City Building Fees Validation, Railway and Theatre Refreshment Rooms Licensing Amendment, Explosives, Widow of Late C. Y. O'Connor Annuity, Supply.

QUESTION—RABBIT ACTS (How ENFORCED).

HON. R. G. BURGESS asked the Minister for Lands: 1, If the Government is aware that the Rabbit Act of 1883, and Amendment Act of 1885, are in existence. 2, If so, has Clause 7 of the 1883 Act been carried out. 3, If the Government intends to enforce the Act or not.

THE MINISTER FOR LANDS replied: 1, Yes. 2, Yes. 3, Yes.

QUESTION—WATER CATCHMENT (MUNDARING), TO RINGBARK TREES.

HON. J. W. WRIGHT asked the Minister for Lands: Whether it would not be advisable to at once ringbark all trees and grub up all scrub and undergrowth, and collect and burn rubbish on the Mundaring catchment area, with spare labour now available from pipe track.

THE MINISTER FOR LANDS replied: For various reasons such a course is not considered advisable. Should it be found necessary, later on, to increase the inflow into the reservoir, the catchment can be increased by including therein certain areas with a known large percentage of run-off.

QUESTION—COOLGARDIE WATER SCHEME, RESERVOIR.

HON. J. W. WRIGHT asked the Minister for Lands: Seeing that the Engineer-in-Chief, in his reply to Mr. Leonard, is dealing with the full quantity of water impounded in two seasons, and considering that only 105,000,000 gallons

was caught during last season, how much water does he propose to supply next year from the Mundaring Weir.

THE MINISTER FOR LANDS replied: The yield of the catchment area draining into the reservoir has been as follows:—For the year ending 30th June, 1899, 3,821 million gallons; for the year ending 30th June, 1900, 2,460 million gallons; for the year ending 30th June, 1901, 9,021 million gallons; for the year ending 30th June, 1902, 1,365 million gallons; for quarter ending 30th September, 1902, 225 million gallons; and although it is possible that the wet season of 1903 may be as unproductive as that of the current year, it is on the other hand more than likely—if rainfall records, and those showing state of the Victoria Reservoir during the past years are taken into account—that the yield in 1903 will be sufficient to fully meet the goldfields requirements. In the meantime, that is from the completion of the scheme up to say, July, 1903 (when it is anticipated the reservoir will gain rapidly), the amount that can be supplied is nearly $2\frac{1}{2}$ million gallons daily, and it is not anticipated that more than this quantity will be required during the months following on completion.

KING'S PARK TRAMWAYS BILL.

POINT OF ORDER.

THE PRESIDENT gave his reserved ruling on the point of order raised by the Hon. A. G. Jenkins on the 30th September, as follows:—The Minister for Lands, in accordance with notice, moved for leave to introduce a Bill intitled "An Act to authorise the construction of Tramways in the King's Park." Objection taken that a Bill of the same nature had already been brought in and rejected by the House, and the hon. the President is asked whether it was competent to bring forward the above Bill. There is no objection to the motion of the hon. member on the ground of order. The motion under discussion is not "the same in substance" as one negatived by this House this session. The proposed Bill differs in title and in an important detail from that indefinitely postponed. The Bill is not the same Bill, as it differs substantially from the Bill upon which the House had come to a decision. It is

competent, however, for the House on motion made to decide the matter. I find that there was a decision bearing on the point given by Mr. Speaker Peel:—

As Similar or Identical.

An hon. member asking leave to bring in a Bill to remove the disabilities of the police in England, in respect of parliamentary elections. Objection taken that another member had given notice of a similar Bill as regards Ireland, although a Bill of the same nature relating to the two countries had already been brought in and rejected by the House, and Mr. Speaker is asked whether it was competent to bring forward these two Bills.

MR. SPEAKER: There is no objection to the motion of the hon. member on the ground of order. The Bill to which the hon. member refers was not defeated on the motion that it be referred to any Committee; it was upon the motion that it be referred to a very distant day. Of course, it is for the discretion of the House whether there should be more than one Bill before the House dealing with the same subject.

I find that *May* says:—

The only means, therefore, by which a negative vote can be revoked is by proposing another question, similar in its general purport to that which had been rejected, but with sufficient variance to constitute a new question; and the House would determine whether it were substantially the same question or not.

I therefore rule that it is competent for the House, on motion made, to decide whether they will allow this Bill to be submitted or not.

DEBATE ON MOTION.

THE MINISTER FOR LANDS (Hon. A. Jameson): I move "That the motion under discussion is not the same in substance as one negatived by this House this session, and may therefore be put." The whole matter is now open to discussion by members, and the debate can proceed as to whether or not this Bill shall be received.

HON. A. G. JENKINS (North-East): As the member who raised the point of order, and as one who is still strongly of opinion that the Bill cannot be brought before the House, I should like to compare the two Bills which are the subject of discussion. The first Bill, that actually introduced, was to amend the Parks and Reserves Act, 1895. In that Bill were two main principles; one giving the right to permit hotels to be erected in reserves, the other giving the right to

construct tramways in reserves. The Bill now sought to be introduced is an Act to authorise the construction of tramways in King's Park by the board, or to allow the board to lease the tramway when constructed, and to grant certain running rights in respect of it. That is identical with the measure previously rejected. I cannot see how any other opinion on the matter can be held by any member who will closely study the Bills. In *May's Parliamentary Practice*, pages 286 to 289, tenth edition, the law on the question seems to be laid down beyond all possibility of doubt; and I think the House would be agreeing to a very bad principle if, after they have once decided a question—no matter whether it be important or unimportant—they allow the same question to be again debated during the same session of Parliament. We are not now discussing the question whether we are in favour of or against the Bill; whether we are in favour of allowing tramways to be constructed in King's Park. That is beside the question at issue. We are now to decide whether we think that a Bill the main principle of which has already been rejected by the House shall be again introduced during the present session of Parliament; and I for one most strenuously object to any such leave being given. I hope the House will support me, because this is really one of our greatest privileges; and even if the Bill were most important, this is a privilege we should not lightly forego. I urge those hon. members who perhaps may not be conversant with the matter, some of them not having been here on the last occasion, to read the two Bills, and after ascertaining the procedure, to say that leave shall not be given to introduce this measure.

THE MINISTER FOR LANDS: I should like to point out how this matter appears to me, though not an expert. This is a matter for the exercise of common sense merely. Early last session there was a Bill brought in to amend the Parks and Reserves Act, dealing with a variety of questions, not with tramways only, but with the erection of hotels in reserves, the licensing of refreshment rooms therein, and so on.

HON. A. G. JENKINS: There were only two questions.

THE MINISTER FOR LANDS: There was more than one question in that Bill, as must be admitted. The Bill was thrown out; the Government did not know on what ground, because it was never discussed. We do not know whether it was rejected on the ground of admitting tramways or of granting licenses to refreshment rooms.

HON. J. W. HACKETT: It was thrown out because you would not refer it to a select committee.

THE MINISTER FOR LANDS: So you say; but I am not aware of that. I have no knowledge of that whatever. However, the Bill was thrown out; and, as Mr. Moss points out, there was no debate upon it, so Ministers are at a loss to understand why it was thrown out. I attribute no blame to Dr. Hackett for throwing out the Bill. At all events, we lost it. Now I wish to bring in a Bill for a specific purpose, namely the running of a tram line in the King's Park, Perth. Surely it must be clear to hon. members that there is a great distinction, even had the original Bill dealt with the broad and general principle merely of allowing tramways to run in parks. Members might well have thrown out such a measure, not approving of the general principle being extended to parks throughout the whole of the State; at the same time, they might have had every reason to think it advisable to grant this right to some specific park, such as the park of the capital city. Therefore to me it appears an entirely different issue, not a question of principle, but a provision for a specific purpose; whether we are to allow a Bill to be brought in for some specific purpose when that purpose has in a general way been previously dealt with. This is a specific action, not a general principle, and is entirely different in time and in degree from the Bill originally brought before the House. I hope hon. members will not allow themselves to be carried away by the arguments of Mr. Jenkins, though his arguments are no doubt passable on the question of principle. But there is no question of principle here involved. It is a question of common sense merely, which I think we can all decide without any special knowledge of constitutional law; a question whether there is a difference between a general principle and a

specific action. I maintain it is quite clear that the Bill I propose to bring in is of a nature entirely different from that previously submitted to the House.

HON. G. RANDELL (Metropolitan): The question presents itself thus to my mind. If Clauses 7 and 8 of the Bill submitted in the early part of the session had been passed, would not the Perth Park Board have all the authority which it is now sought to give them by the Bill proposed to be introduced, to carry the tramways into that park? I think so. And it seems to me, with all due deference to the leader of the House, that Clauses 7 and 8 settle the question:—

A board may, on such terms and conditions as the board may think fit and the Governor approves, construct or use tramways, or authorise the construction of such tramways by any person, grant running powers over any such tramways, and may with the like approval charge fares and tolls and make by-laws for the regulation of such tramways. The powers conferred by this Act may be exercised notwithstanding the reserve may be classified as Class A under the Permanent Reserves Act of 1899.

I think nothing could be clearer than that. The power which would have been given by the original Bill is exactly the same as the power sought by the proposed Bill; and if the former Bill had been passed there would have been no necessity for the Bill it is now sought to introduce. It seems to me clear that we should be sanctioning a principle which, though not perhaps in this particular case of great importance, may be important in some future transactions of this House. I think Mr. Jenkins quite right in his contention that as we have rejected a Bill containing the same principles and the same enactments, it is contrary to our privileges and our rights again to endeavour to pass such a Bill through the House in the same session. I think that is as clear as possible.

HON. W. T. LOTON (East): I rise only to say that the point raised by Mr. Randell seems to me right; that the power sought in Clause 7 of the Bill recently thrown out was a general power to construct tramways, not in the King's Park only, but in any park or reserve. Now we are to have a specific Bill for one park only, authorising the construction of a tramway to that park. The original Bill included more powers than are

sought in this Bill; but it included the same powers, therefore this Bill is substantially the same. According to *May*, page 286, it has been ruled in both Houses of the Imperial Parliament that it is essential to the due performance of the duties that no question or Bill shall be offered which is substantially the same as one on which a judgment has already been expressed in the current session. I submit the Bill is substantially the same. The principle is the same exactly. It is sought to give power to construct a tramway in the King's Park: the other Bill sought to give power to construct tramways in various parks.

HON. M. L. MOSS: And a lot of other things.

HON. A. G. JENKINS: Only one other.

HON. W. T. LOTON: I support Mr. Jenkins, and I am in accord with the remarks of Mr. Randell.

HON. C. SOMMERS (North-East): I am certainly in favour of the construction of tramways in the Perth Park; but I think there is a principle at stake, and I intend to support Mr. Jenkins by opposing the motion.

HON. SIR EDWARD WITTENOOM (North): The Bill sought to be introduced is not quite the same as the original measure. For instance, take my own case. I was opposed to the original Bill on account of the granting of licenses; whereas I was and am in favour of the tramline going into the park in a certain way. Therefore we can hardly say the Bills are identical, although there is no doubt one of the purposes of the proposed Bill is identical with one in the original. On the question of principle there may be something to be said; but I certainly consider the fact that the question of granting licenses was coupled with that of taking trams into the park put the original measure in such a position that anyone who was opposed to the licenses could not well agree to the trams going into the park. At all events that was my reason for voting against the Bill; and I cannot see that the measures are identical.

HON. J. D. CONNOLLY (North-East): I agree with the Minister for Lands, although, as remarked by the last speaker, the Bills are not exactly the same. I do not think anyone has contended that they

are; but they are substantially the same. It seems to me that if we allow the motion to pass, we shall establish a very bad precedent. The first Bill was introduced for two purposes; namely, to allow licenses to be granted in parks and for the construction of tramways in parks. This Bill is to allow tramways to be constructed in the King's Park simply, which means that it embodies the latter portion of the former Bill. It seems to me that if we allow this to go, there is nothing to prevent the Government or any member from reintroducing in two parts any Bill that has been rejected. This is simply reintroducing a Bill or the last part of a former Bill. If we allow this to go, is there anything to prevent the Government or any member from introducing and putting before the House the first portion of the former Bill? On that question I must support Mr. Jenkins on the line he has taken up.

HON. J. W. HACKETT (South-West): I have listened to a good deal of argument in this matter, and I must say that I fail to be convinced. If you give power under a general clause to do half a dozen things, and the House declares it is not willing to give that general power, you may divide those things into separate Bills and therefore give the House absolute power over the terms and conditions. No doubt if the original Bill had been carried, a general power might have been given to carry this tramway into the park; but that is the very thing I take it the House opposed, that there should be a general power which, though it might be availed of by, say, the Perth City Council as owners, as they will shortly be, of a large part of the common, would give power to do something in special terms and conditions. So with regard to the park boards, you give them power to do one thing that is provided for in an Act which allows many things to be done, but only under special terms and conditions. This House, as I understood it, desired each case to be decided distinctly on its own merits, therefore the general Bill was thrown out; and it seems to me the most reasonable thing to do is to bring in a Bill to meet the objection on which the House defeated the other Bill, this being a Bill to allow specific terms and conditions to be attached to one

specific act to be performed—to carry tramways into a specific park.

HON. G. RANDALL: Supposing they introduce a clause for Nos. 5 and 6?

HON. J. W. HACKETT: Certainly, Mr. Connolly pointed out that it could be done, that the Bill could have been broken into three or four parts, and then there would have been no difficulty whatever.

HON. A. G. JENKINS: Is not the Bill substantially the same?

HON. J. W. HACKETT: You cannot say the Bill is substantially the same, because there were four or five things proposed to be done by the original Bill.

HON. J. D. CONNOLLY: Only two.

HON. M. L. MOSS: Read the first clause.

HON. J. W. HACKETT: I think Mr. Connolly has forgotten the original Bill. The original Bill proposed that the Governor might constitute a municipal council or road board a board of parks and reserves. I objected to that. Then there was a clause to render more accessible the entrances to and passages within any cave. I objected to that. I also pointed out that Clause 4 did not give the Zoological Gardens authorities the power they desired. Then the Government were to allow hotels to be erected. I objected to that clause.

HON. J. D. CONNOLLY: You objected to every clause.

HON. J. W. HACKETT: Precisely, because each clause embodied a different principle.

MEMBER: You could have amended it in Committee.

HON. J. W. HACKETT: My idea was to send it to a select committee. I voted for that, but the House would not agree to it. I think I was one of a minority of four members. Nothing could be more distinct from a Bill containing all these points and principles than a Bill which says we will take the general power out of the Act, and confine this to one specific act, the carrying of tramways into King's Park. That was the case alluded to in the decision given by Mr. Speaker Peel. There was a Bill proposed to remove disabilities of the police in England and Ireland. That was negatived in exactly the same way, that it be read this day three or six months. Then the Government brought in a Bill

in two parts, one to deal with the police in England, and the other with the police in Ireland, because the conditions of the police in England were so completely distinct from those in Ireland that it was necessary the subject should be dealt with by two separate Bills. So it was in this case. The general power was repugnant to the House. I was with them in that, and insisted that the Bill ought to be amended in that direction. Now that general power is struck out, and the House are given ample power to deal with a particular case. The generality of the Bill disappears. I think what we ought to do with regard to this Bill is not to stand upon a technical point, and a technical point of very small importance. A good deal is said of the privilege of the House, but this is a very small privilege, and the object is to save the time of the House.

HON. A. G. JENKINS: Small or big, they are all the same.

HON. J. W. HACKETT: No.

HON. J. D. CONNOLLY: It is a precedent.

HON. J. W. HACKETT: I would always support the principle that where cases as collectively put may work hardship or possibly be mischievous to the public interest, we should be restricted to individual cases, and each individual case should be considered on its own merits. However, I take it that the opposition is really the result of reluctance and unwillingness to proceed with the question of allowing tramways to go into King's Park; not in regard to all members, but I think decidedly that is the case in relation to those who take this hostile view.

HON. A. G. JENKINS: You should not say that.

HON. J. D. CONNOLLY: You should not say that.

HON. J. W. HACKETT: Why not? I give it as my opinion. A number of members who are taking this stand are opposed to the introduction of tramways into King's Park, and it is perfectly legitimate on their part to be so: it does not involve any high treason. They may object to tramways. It seems to me that we should allow that question to be decided apart from any little technicalities which, as I say, hardly enter into the matter.

HON. J. W. WRIGHT (Metropolitan): Will the hon. member tell us what distance it is proposed to take this tramway into the park?

HON. J. W. HACKETT: It is in the Bill.

HON. J. D. CONNOLLY: In the schedule, 24 chains.

HON. J. W. WRIGHT: Then I think it comes within something like 22 yards of the present fence of the park, and I should think it would be easier to open a gateway there instead of giving the park away to a private company. I shall strongly object to any tramway going into any public park. It is only the thin end of the wedge to get the tram right through.

HON. M. L. MOSS (Minister): I take it that this matter has been made exceedingly plain by the speech delivered by Dr. Hackett; and I think also that the authorities that have been quoted by you, Mr. President, and other members, also settle this matter beyond a shadow of doubt. I do not propose to discuss the technical aspect of the question at all, nor do I mean to impute to members that their desire for forcing this is that they object to tramways going into King's Park; but I will make this statement, that the effect of opposition is to prevent or postpone for a considerable period the construction of these trams. I think that the point taken is a splitting of straws with a vengeance. There can be no doubt, at any rate there is no doubt in my mind, having listened to the authorities and the arguments adduced, that those in favour of the Bill weigh enormously against those advanced on the other side. It is a well known fact that at the present time persons who visit that park have to pay unreasonably for the purpose of getting there by means of cabs, particularly strangers coming to Perth, who are imposed upon by the cabmen, a class, I regret to say, the same here as elsewhere, which seems to take advantage of a stranger, and to treat him as a regular object for plunder. The benefit of having these trams constructed would be that people would be able to visit that park at a reasonable rate. I believe both sides who have spoken will admit at any rate that the point raised is so fine that it is a difficult matter to say it is right or it is wrong. The House is giving away nothing in

allowing the consideration of this measure. With regard to the observations of my friend Mr. Wright, it may be as he has pointed out, that it is not desirable that these trams should go the distance in the park shown in the Bill; but that can easily be remedied when the measure gets into Committee. I would ask the hon. member not to cast his vote against the motion now before the House simply because some details of the measure do not altogether meet his views. What this Chamber ought to consider is whether we are acting in the best interests of the public by postponing this Bill for another 12 months.

HON. A. G. JENKINS: That is not the question.

HON. M. L. MOSS: It is the question; because the arguments with regard to the technical point are in my opinion enormously in favour of the Bill being considered. At its best it is a splitting of straws. It is all rubbish to talk about giving away the privileges of the House. Have the other side indicated a case so much in point as the one that has been referred to in that ruling of Mr. Speaker Peel? That was a case on all-fours with this. They were dealing with the police in England and Ireland. Mr. Speaker Peel says it is perfectly permissible to bring two Bills in, one dealing with Ireland and the other with England. I have no desire to recapitulate the arguments on this. The Bill rejected refers to a number of matters, and as Dr. Hackett pointed out in his speech on the second reading, it was quite possible for members who voted against that Bill to vote against it on many points. I think the House are giving nothing away, but an injury would be done to the public in preventing the House from considering the Bill.

HON. R. LAURIE (West): When this matter was before the House previously it was on a point of order: it was not on a question whether it was necessary to have tramways in the King's Park. I can only express my astonishment that the hon. member who has just sat down has departed from that position. I should not have expected at all events from an honorary Minister of the Crown that his attitude on the question would be as to whether the Council were in favour of trams going through the park

or not. This point of order having been brought before us, it should be settled. It is not a question of the tramways running into the park. Personally I should vote for the trams going through the park, but at the same time it would be just as competent for a Minister to bring in a measure at the next sitting of this House providing for the issuing of licenses to hotels, as it is competent for him to bring in this measure to-day. I say, as a very new member of the House, that I think it would have been much better to leave the question whether tramways are or are not necessary in the park, and to settle the point of order. At any rate, I support Mr. Jenkins.

HON. C. E. DEMPSTER (East): I cannot see the importance of dealing with this motion as the House apparently intends to deal with it. I do not believe in splitting straws on a question of this sort. It is quite evident that the question of the tramways should not have been considered when coupled with other matters; and I do not think that by dealing with the proposed Bill the House would in any way affect a principle. On the contrary, the country may be seriously affected if we allow an important measure to be shelved for such a reason. I think the question should be dealt with from a common sense point of view; and as the matter was not considered when previously brought before the House, it may well be considered now.

HON. E. McLARTY (South-West): I think the main reason which induced hon. members to throw out the former Bill was the clause dealing with hotels and places of refreshment in public parks. That appeared to me to be the strong objection; and I entirely fail to see how this proposed Bill is identical with that already rejected. The proposed Bill is for one specific purpose; I believe it is to the general interest of the country that it should be passed; and I shall certainly support the Minister.

Question—that the motion under discussion is not the same in substance as one negatived by this House this session—put, and a division taken with the following result:—

Ayes	...	...	...	7
Noes	...	...	...	14
				—
Majority against			...	7

AYES.

Hon. J. W. Hackett
Hon. A. Jameson
Hon. E. McLarty
Hon. M. L. Moss
Hon. J. A. Thomson
Hon. Sir Edward Witte-
noom
Hon. C. E. Dempster
(Teller).

NOES.

Hon. T. F. O. Brimage
Hon. B. G. Burges
Hon. E. M. Clarke
Hon. J. D. Connolly
Hon. S. J. Haynes
Hon. A. G. Jenkins
Hon. R. Laurie
Hon. W. T. Loton
Hon. W. Mailey
Hon. J. E. Richardson||
Hon. C. Sommers
Hon. J. W. Wright
Hon. H. Briggs
(Teller).

Motion thus negatived, and leave refused.

FREEMANTLE HARBOUR TRUST BILL.

Received from the Legislative Assembly, and, on motion by HON. M. L. MOSS, read a first time.

JUSTICES BILL.

RECOMMITTAL.

On motion by HON. M. L. MOSS (Minister), Bill recommitted for amendments.

HON. M. L. MOSS: Certain alterations of obvious errors had been made by the Clerk. In Clause 24, the second paragraph was unnecessary. In Clause 114, the word "deceased" in the second-last line vitiated the sense, though, strangely enough, it had been copied from the Imperial Act into the Act of Queensland, from which the Bill was taken. The Parliamentary Draftsman was of opinion that Clause 225 should be struck out. With that he (the Minister) and Mr. Haynes agreed, the clause being entirely unnecessary.

THE CHAIRMAN: The amendments should be taken *seriatim*.

HON. M. L. MOSS moved that paragraph 2 be struck out: it was unnecessary.

Question passed, and the clause as amended agreed to.

Clause 114—Depositions when admissible in evidence:

HON. M. L. MOSS moved that the word "deceased," in line 14, be struck out.

Question passed, and the clause as amended agreed to.

Clause 225—No action against justices after order nisi to quash conviction has been granted:

HON. M. L. MOSS moved that the clause be struck out.

HON. S. J. HAYNES: Why the clause as it appeared was put in the Bill he could not imagine. As it was, it seemed to be nonsense: it could not be carried out.

Amendment passed, and the clause struck out.

SIR E. H. WITTENOOM desired information relative to a list of justices.

HON. M. L. MOSS: The matter had been brought under the attention of the Attorney General, so that in future at any rate once or twice a year a list of justices would be put in chronological order according to the date of appointment.

Bill reported with farther amendments, and the report adopted.

MARINE STORES BILL.

RECOMMITTAL.

Resumed from the 1st October; the MINISTER FOR LANDS in charge of the Bill.

New Clause:

HON. C. SOMMERS moved that the following new clause be added to the Bill:—

No collector shall sell or dispose of any bottles bearing the trade mark, brand, or name of any person or company trading or carrying on business in Western Australia as an aerated water manufacturer, save and except to the person or company carrying on such business, or their duly authorised agent or agents, and any collector so selling or disposing of such bottles, save as aforesaid, shall be guilty of an offence against this Act.

Any person or company purchasing or receiving from such collector, or from any other person, any bottles bearing the trade mark, brand, or name of any other person or company carrying on business in Western Australia as an aerated water manufacturer, shall be guilty of an offence against this Act.

It had been brought under his notice by aerated water manufacturers of the city and of Fremantle that a great deal of injustice was done by men of unscrupulous character and dealers selling the aerated water bottles bearing a trade mark, to persons other than the particular owner. Most of the dealers in a large way of business imported these bottles with their names blown upon them. Those bottles cost 36s. a gross. Owners were willing to pay to the collector sixpence a dozen, but unscrupulous men found that by sending the bottles away to the country districts to small aerated water manufacturers, or

to the goldfields, they could get 2s. a dozen for them. That was a great injustice to the manufacturer who imported the bottles. These bottles were not for sale, but were the property of the man who had bought them. The idea of the new clause was to make it impossible for those men to sell the bottles in any way except to the owner.

HON. J. W. HACKETT: Supposing a man collected bottles on the railway?

HON. C. SOMMERS: He could bring them back and get sixpence a dozen.

HON. R. G. BURGESS: Bottles were sold like anything else.

HON. C. SOMMERS: These bottles were not to be sold. People imported them with their names on them for the very purpose of preventing them from being sold. This clause was urgently desired by the trade to protect the manufacturers. The Committee ought to assist them in getting their own returned to them at a reasonable price.

HON. M. L. MOSS: At the first blush he was inclined to support this clause; but the more he thought about it the more objectionable he found it. Manufacturers of aerated waters sold the aerated waters to publicans. What one would naturally expect in such circumstances was that the manufacturer would keep an account of the people who purchased from him, and the number of bottles, and send round a cart to these public-houses and expect the publicans to deliver up the empties at stated intervals. Why should we provide a different law for the aerated water manufacturer from that for anybody else? We were told that people got hold of these bottles illegitimately, and that might be so; but he thought that when members looked at the very drastic provisions of this measure, and the period which collectors were obliged to keep these articles before they could sell them, the Committee would find the public were amply protected. He believed that in many instances where the manufacturer sold to private people, the bottles were sold with the aerated water; and should a man be punished if he collected these bottles and sold them afterwards? Unless there were very strong reasons, we should not multiply legislation dealing with one particular trade. [HON. R. G. BURGESS: And only one

portion of that trade.] It was not to the best interests of the public, but was too grandmotherly altogether.

HON. T. F. O. BRIMAGE: Mr. Sommers was not, he trusted, serious in this matter. A traveller going a railway journey perhaps bought a couple of dozen of sodawater and took them with him to the fields; he paid for those bottles before he got into the train, and he could not return them. If those bottles were gathered by a collector and sold to another firm, that was perfectly just as far as the collector was concerned. On the goldfields, aerated water bottles were largely bought by cordial factories, and that should not be made punishable.

HON. C. SOMMERS: Such bottles would not be affected.

HON. A. G. JENKINS: Why should the public be deceived as to the contents?

HON. M. L. MOSS: The Merchandise Marks Act would prevent that.

HON. J. W. HACKETT: If not more than sixpence per dozen were to be charged for the returned bottles, it would not pay a collector to sort them out for different factories. Or, as the clause provided that bottles must be sold to the original manufacturer, he could therefore fix his own price. The only way in which the manufacturer could prevent fraud was by a printed label or a seal. A purchaser depending on the name worked in the glass deserved to be deceived.

HON. J. A. THOMSON: There was no use for the amendment; because the manufacturer could protect himself by debiting his customer with the bottles sold and crediting returns, proceeding under the Merchandise Marks Act against other manufacturers who might use his bottles.

HON. C. SOMMERS: To charge up such bottles was not easy. The trade could not do it, and manufacturers desired protection. The bottles were not sold. As to sorting them out, there were in Perth and Fremantle only some dozen aerated water factories, so sorting would be no great matter.

HON. J. W. HACKETT: It would not be done were the price sixpence a dozen.

HON. C. SOMMERS: The new clause would do good; but as it appeared objectionable to the Committee, he would withdraw it.

New clause by leave withdrawn.

Bill reported without amendment, and the report adopted.

TRANSFER OF LAND ACT AMENDMENT BILL.

ASSEMBLY'S AMENDMENTS.

Schedule of five amendments made by the Assembly now considered, in Committee.

No. 1: Clause 4, line 2—Strike out the word "wholly" and insert "certificate" in lieu:

HON. M. L. MOSS (Minister): Since this Bill had come back from the Assembly, the Registrar of Titles had told him that if the Council agreed to this amendment, the principal Act might as well have been left alone. To compel the taking out of a new certificate when ten memoranda of transfer had been indorsed on the title would make the procedure nearly as complicated as it was now. He moved that the amendment be not agreed to.

HON. S. J. HAYNES supported the motion. The clause as passed by this House would be a convenience to the public, and would prevent considerable annoyance. At present, if any land comprised in a certificate were dealt with, the certificate must be left in the Titles Office. On demand, the owner obtained a clean certificate; hence anyone examining a certificate could readily see what property was therein comprised. The Assembly's amendment would not improve matters, and might put the public to considerable loss by the fee of 10s. 6d. every time land was dealt with.

HON. A. G. JENKINS agreed with the last speaker. The clause as it left this House brought the law exactly into line with that of all the sister States except Victoria, which adhered to the old system because, owing to its long continuance, that could not be altered without upsetting the work of the Titles Office.

Question passed, and the amendment not agreed to.

No. 2: Clause 4, line 3—Strike out the words "or partially," and insert the following in lieu thereof:—"or of any certificate on which are indorsed the memoranda of ten transfers."

No. 3: Clause 4, line 3—Strike out all words after "by," and insert the following in lieu thereof:—"Adding after

the word 'cancelled,' in the eighth line, the words 'on which are indorsed less than ten memoranda as aforesaid.'"

HON. M. L. MOSS: These amendments were consequential. He moved that they be not agreed to.

Question passed, and these amendments not agreed to.

No. 4: Add the following new clause, to stand as Clause 7:—

If in any certificate of title issued before or after the passing of this Act a piece of Crown land not included in the grant from the Crown is, in consequence of an error in the survey, included in the certificate of title, the Governor may, on the recommendation of the Surveyor General, order that such piece of land shall be deemed to have been included in the grant.

HON. M. L. MOSS moved that the amendment be agreed to.

Question passed.

No. 5: Add the following new clause, to stand as Clause 8:—

Every right-of-way shown and marked as such upon any map or plan deposited with the Registrar, under the provisions of Part Eight of the principal Act, on the subdivision of any land shall, unless the contrary is stated, be deemed an easement appurtenant to the land comprised in such map or plan and abutting upon such right-of-way, and not a public way or thoroughfare.

HON. M. L. MOSS moved that the amendment be agreed to. It was held in South Australia by the Full Court that once a plan of a subdivision of land was deposited at the Titles Office, and a right-of-way was shown on the plan, that right-of-way immediately became dedicated to the public as a public way or street. Granting rights-of-way to persons in the case of a subdivision of land was never meant to make those rights-of-way as back entrances to public streets or public ways. It was merely intended to give these people convenient means of access to the back portion of their premises; and if this amendment passed into law, the result would be that in a number of cases those who had the right to use a common right-of-way would be able to put a gate up and exclude the public from using it.

HON. G. RANDELL: What about the right of user for 20 years?

HON. M. L. MOSS: If by right of user any way became a right-of-way, this amendment would not apply to it; but

the effect of the new clause as it stood at the present time would be that the mere fact of a plan being deposited and showing a right-of-way would not make that right-of-way a public way. Parliament ought to be very careful about taking away rights over private roads; but this proposal which had been made in the Assembly seemed a very fair thing.

HON. J. W. HACKETT: We had a question very much like this, he thought, before the Council on a previous occasion, and Mr. Moss spoke and voted against it.

HON. M. L. MOSS: The Roads Bill?

HON. J. W. HACKETT: The Roads Bill. He (Hon. J. W. Hackett) voted against it, at any rate. This in his opinion went a great deal farther than Mr. Moss would allow the House to believe. He thought that on that occasion the House by a considerable majority declared that these rights-of-way when once granted should not be interfered with. The practical difficulties were very considerable. If there were a right-of-way with half a dozen houses on each side of it, any one of the occupiers could put a gate up.

HON. M. L. MOSS: No. The whole of them.

HON. J. W. HACKETT: One could put a gate across.

HON. M. L. MOSS: There was a great difference between this and that which he (Mr. Moss) opposed last session. What was before the House last session was that the adjoining owners could take that right-of-way and divide it, taking half each: they could close the way up. He would oppose that now.

HON. J. W. HACKETT: If a block were cut up into a hundred lots, and there were half a dozen of these narrow easements, and half a dozen broad streets running across, would the easements be counted from end to end or from broad road to broad road? Who had the power to grant a right-of-way? In the city of Melbourne the broad streets had been originally the only streets, the narrow having never been intended to be anything but easements. In the same way, would not the permission of all the owners of any such easements be necessary in Perth to permit of the development of the city? There were in Perth two rights-of-way between

William and Barrack streets which had been practically appropriated by the owners, one running from St. George's Terrace to Hay street, and another a continuation from Hay street to Wellington street. These had been fenced off, though they had within the last 20 years been open, and the owners were well aware that rights-of-way existed. Why support the principle of giving people as a free gift land which did not belong to them? In Hay street, Perth, and High street, Fremantle, such easements had been given away in the past, landowners being offered inducements, for economic reasons, to take up strips of the public highway. As the city developed, those easements would prove most important to the public; and the House should do nothing to diminish the possibility of the public having the use of such rights-of-way.

HON. M. L. MOSS: Under the Municipal Act, no roads of less than 66 feet in width could be laid out; and if, when the Act came into operation, a road of less than 33 feet had been laid out, no inhabited tenement could be erected on it, nor could any right-of-way of less than 16½ feet be permitted, and most of the rights-of-way laid out before the date of the Act were of less width. Even if not, would it be desirable to alter the law to permit people to build houses abutting on 16½ feet passages?

HON. J. W. HACKETT: Only access was required.

HON. M. L. MOSS: Right of access was fully preserved by the law. Business thoroughfares of the same width as Flinders Lane and Little Collins street, Melbourne, were most undesirable. What right had the public to declare those passages public ways which had been provided by the person subdividing his land?

HON. A. G. JENKINS: The new clause was one of the best amendments ever proposed in the Act, giving the owners of land adjoining such rights-of-way an easement when their land abutted on the passage, but giving no right to other owners in the neighbourhood. In such rights-of-way the public had no interest, and to give them one would assert a bad principle. To close a passage from street to street, the consent of all

owners of abutting land would be required.

HON. J. W. HACKETT: They would agree to divide the right-of-way.

HON. A. G. JENKINS: Well, none else were concerned.

HON. J. W. HACKETT: The passage has been provided for the whole estate.

HON. A. G. JENKINS: It should not be provided save for adjoining owners.

HON. J. W. WRIGHT: How would the clause affect the owner? Recently a man had bought all the allotments in a subdivision and built over a right-of-way; and to get the title he had to pay the owner £75.

HON. A. G. JENKINS: If the clause were passed, the original owner need not be paid.

At 6:30, the CHAIRMAN left the Chair.

At 7:35, Chair resumed.

HON. C. SOMMERS produced a plan of an estate, and pointed out the hardship which might be inflicted if there was a desire to alter the rights-of-ways, and the consent of the owners of all the property adjoining had to be secured. Perhaps one man might stand out and endeavour to get a ridiculous sum, knowing his power, and that unless he consented nothing could be done.

Amendment put and passed.

Resolutions reported and the report adopted.

A committee, consisting of Hon. M. L. Moss, Hon. S. J. Haynes and Hon. A. G. Jenkins, drew up reasons for disagreeing to amendments 1, 2, and 3, as follow:—
1, That the amendments made by the Legislative Assembly will not have the effect of remedying the inconvenience caused by the law as it at present stands.
2, That if the clause as originally passed by the Legislative Council is agreed to by the Legislative Assembly, the law will be uniform with the Australian States and New Zealand (Victoria excepted).
3, The experience of persons dealing in land in such States, and New Zealand, proves that the system prevailing there is preferable to that existing in Western Australia.

Reasons adopted, and a message accordingly transmitted to the Assembly.

RAILWAYS ACTS AMENDMENT BILL.

SECOND READING.

Debate resumed from the 1st October.

HON. J. W. WRIGHT (Metropolitan): Since the adjournment I have read this Bill through, more particularly from the point of view of an engineer; and I must say that in many respects I am disappointed. For instance, though the Government have to all intents and purposes pledged themselves to retrenchment, yet under this Bill hon. members will see, I think by Clause 14, that the cost of administration will be increased instead of diminished. The Bill is entitled "An Act to amend the Railways Acts." I think it would have been much better had they brought in a consolidating Bill in a concise form, not an amending Bill. This is the seventh amendment of the original Act, and I think these additional amendments are a great mistake, being what is termed outside "tinkering." There is no doubt the original Act must be in a very bad state to require these amendments one on top of another. Clause 3 provides that on the occurrence of a vacancy in the office of Commissioner the Governor may appoint a Commissioner; but another and later clause throws on Parliament the onus of discharging him. Why should we have that onus if we are not to have a voice in saying whether he shall or shall not be Commissioner? I think paragraph (a) of that clause should provide for the Commissioner holding office subject to the approval of Parliament, if we are to have thrown upon us this onus.

HON. J. W. HACKETT: How would that work out?

HON. J. W. WRIGHT: We should then have the right of saying whether he should be appointed or whether he should be discharged. Now we have the right of saying he shall be discharged only, after he has been suspended by the Governor-in-Council.

HON. J. W. HACKETT: Suppose the House be not sitting when the vacancy occurs?

HON. J. W. WRIGHT: There is provision for appointing an Acting Commissioner, with all the Commissioner's powers. Clause 9 reads:—

The Commissioner shall have the management, maintenance, and control of Government railways open for traffic, and with the

approval of the Minister may make additions and improvements.

Under this clause a minimum of power is given the Commissioner. No matter what his needs are, if he wants a link of station, or a few links of rails, or a temporary crossing to meet any emergency, he cannot obtain it from his revenue under that clause without the sanction of the Minister.

HON. M. L. MOSS: You do not want two branches going for construction, do you?

HON. J. W. WRIGHT: Yes; to a certain extent. The Commissioner must have certain powers to make alterations and improve his station buildings.

HON. M. L. MOSS: That has been one of the worst troubles of the past.

HON. J. W. WRIGHT: I do not think so. If you are going to deal with loan moneys, you should come to Parliament or the House for sanction, but if the Commissioner has revenue he should be allowed to make those alterations.

HON. M. L. MOSS: That is one of the things which got Mr. John Davies into trouble.

HON. J. W. WRIGHT: I have done with him, and I think the commission too. There are many things I do not wish to say about him. Clause 10 also says "all fares, tolls and freights shall be fixed by regulations made in accordance with the Railways Acts, and approved by the Governor and published in the *Government Gazette*." Here you have appointed a Commissioner, and he is supposed to have some knowledge of railway work. I think it should be his duty to make rates applicable for the time being; but if he is debarred from making those rates and they have to go to Parliament for sanction, where are we going to land? Because, supposing those rates are made a week or so after Parliament adjourns, they will be in operation long before the House meets again. I think it is only making a loophole for him to carry out any maladministration; it is reverting really to the old order of things. I think he should have more power than that. The clause says: "Such regulations shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then sitting, or if Parliament is not then sitting, within fourteen

days after its next sitting." Supposing they were made a week or two after Parliament adjourned, the thing would be in operation long before Parliament had any say in the matter. I think these clauses are really a mistake or that they want altering in some way. Clause 11 speaks of the clerical staff. In railway parlance, the clerical staff is known as those persons who are in receipt of a regular salary, and not a daily wage. I do not exactly grasp under this where the clerical staff begins and ends, because firemen, carpenters, foremen, plumbers, painters, and such like are salaried men put on that list on purpose to keep them from joining workmen's unions. If you deal with that in this way in the Bill, you are, I think, cutting the men as it were into two sections. I think it would be much better to classify them all under one list. It would simplify matters as far as railway work went. I am certain of that. Clause 12, to my mind, goes to a certain extent too far in some instances, and in some cases not far enough. I think it is right that the Commissioner should have a say as regards the equipment, or what class of station he should have, or what buildings and goods sheds, because on many lines at the present day we find goods sheds put up that really are never used. I think I could mention several cases. I have been by a dozen times, and have never seen a single thing in them. In many instances a goods shed at one-fourth the cost would do, and the Commissioner would study these conveniences for the purpose of making his railway pay. The onus of the extension of railways and of new lines should be distinctly left with Parliament, but I do not think they should be considered or gone into until the Commissioner has reported saying what the likely returns would be, and what the traffic, and such like, because I feel certain that, if the Commissioner is the good man he is supposed to be, his report would bear great weight with members. In Clause 13, the hands of the Commissioner are still tied, because it says: "The Commissioner may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds," etc. I think he should be allowed to repair or replace as far as he could from revenue; but of course as I say, if it is

loan money, there is no doubt the approval of Parliament should be obtained in all such cases before such money is spent. It also speaks about revenue returns. These, I believe, are generally laid on the tables of the two Houses, and I think that, if the Commissioner is to be trusted at all, the labour and expense are really unnecessary. In one of the clauses it says that he also shall prepare estimates in such form as the Minister may, from time to time, direct. If the Minister were to call for those estimates in detail it would mean, I take it, that the salaries of each of the whole 6,000 employees in the Government service would be shown. That would mean that a statistical branch almost would be wanted to supply information, and instead of the working expenses, or the expenses in connection with the line, being reduced, they would increase. Again, with regard to these balance sheets, I think the public have a right to know how the railways are going on; whether they are being dealt with on a business basis. The forms should be as simple as possible, the same as for an ordinary firm or company, and not with all these tabulated forms. That would do away with a lot of expense. Clause 16, I think, may be pretty well wiped out altogether. I do not see much use in it. It says: "Any deputation in which a member of Parliament takes part, or at which he is present, shall interview the Minister and not the Commissioner." I would like to point out that the Commissioner would know more what a deputation was talking about in reference to the accommodation required on a railway than nine out of every ten Ministers, because Ministers would have to be guided by those under them. The right man really to approach is the Commissioner. If a member of Parliament is debarred from going to the Commissioner about this sort of thing, he might as well be barred from dealing with the railways altogether. In my opinion that clause is totally unnecessary. Clause 17 deals with suspension and removal of the Commissioner. It says "If each House of Parliament within the said time so declares, the said Commissioner shall be restored by the Governor accordingly, but otherwise may be removed from office." I think that if they have to come to the House to remove the Commissioner, it is

nothing but right that Parliament should have the right to certify to his appointment before the appointment becomes law. It looks to me as if we are dividing the thing up into two portions otherwise. Clause 19 says: "All Government railways shall be vested in the Minister on behalf of His Majesty." I think that in New South Wales—though I am not certain, but I am pretty well sure—all the property is vested in the Commissioners. I do not know why it is put this way. Then looking again at Clauses 19, 20, and 21 it is clear to my mind that the Bill is really only a patchwork one, because the powers that are given here are dual powers, and if the railways are to be put on a proper footing the Commissioner should have sole control of existing lines and rates on those lines. I do not think his hands should be tied so much. Then if you follow Clause 22, which to my mind touches the farming people more than anyone else, it says: "Any person who permits any animal to wander, stray, or trespass on any railway shall be liable on summary conviction to a penalty not exceeding ten pounds." I should have thought they had the powers under the other Act, and I believe it is so, to make it a by-law. I do not see why they want to put it into the Bill at all. In case of our railways running through unfenced land, how are the farmers or landowners to keep their cattle from trespassing on the line? This clause seems to me totally unnecessary. [MEMBER: Let the engine deal with the "coo."] Yes. Again, I think it is necessary to add to this Bill a provision for auditing these accounts. We know from recent experience the trouble that has cropped up in the Railway Department, and there is no provision made here for that audit. Had those accounts been audited we should not, I think, have heard so much of some of those scandals which have been passing by us recently. Again, in regard to the Acts in the other States, I have seen in the papers in the last two days long accounts where Mr. Bent has been cutting down expenses in connection with free railway passes, the saving being £47,000. I do not think it goes on to such an extent in this State, or anything like it, but in my opinion the number who have these passes granted to them, whether they are distinguished visitors from the other States or whoever

they are, should be enumerated in this Bill. Again, in the other States they make provision for inquiry into railway accidents within 30 days. Such inquiry must take place within 30 days of the time the accident happens. There is nothing of that kind in this measure. We shall have to add another amendment—which will make eight, I think—to be put in next year. I do not know whether it would be necessary to bring forward a railway loan redemption Bill, but in my opinion the question should be taken into account. I think the Commissioner should be empowered in some way or other to provide for necessities, and if he has extra moneys, either to use those moneys towards improving stations or accommodation for the public, or else reducing the railway rates. Again, for a long time there has been a burning question as to whether the railway employees should have civil rights outside the department. Undoubtedly they should be allowed to hold office in municipal councils, roads boards, or any other bodies. They should have the same rights as the private employee. Provision for this can easily be embodied in the Bill, if the measure is to be adopted.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

HON. M. L. MOSS in charge of the Bill.

Clause 1—agreed to.

Clause 2—Interpretation:

HON. J. W. HACKETT: What constituted the "clerical staff" was a matter of great uncertainty, and was of importance apart from the railway service. A definition of "clerical staff" as distinguished from the mechanical or the working staff was highly necessary.

HON. M. L. MOSS: Evidently the "clerical staff" consisted of those persons not included in the schedule of railway servants attached to the Act of 1887. The latter were the servants whom the Commissioner could dismiss summarily, such as inspectors of permanent way, gangers, etcetera. All other employees would be the clerical staff.

HON. J. W. HACKETT: That made the difficulty most acute. If station inspectors or ticket clerks, booking clerks, or goods clerks were not "clerical," what

was the phrase correlative to clerical? Was it "manual" or "mechanical"? All these employees were mentioned in the schedule. If they were not clerical, it was eminently desirable that "clerical" should be defined in the interpretation clause.

HON. J. W. WRIGHT: As a railway man, he impressed on the Committee that "clerical staff" should be distinctly defined.

THE MINISTER FOR LANDS: At a later stage he proposed to report progress in order to bring forward an amendment; and he now moved that this clause be postponed till the end of the Bill.

Motion passed, and the clause postponed.

Clause 3—The Commissioner :

HON. J. W. WRIGHT moved that the words "subject to approval of Parliament" be inserted after "shall," in line 2 of paragraph (a) of Sub-clause 2.

THE MINISTER FOR LANDS: This was the old question as to the powers of the Executive and the powers of Parliament. It would be highly inconvenient, should a vacancy for Commissioner occur when Parliament was not in session, if the Executive could not appoint the Commissioner. It was the duty of Ministers to take on themselves such responsibilities; and if they were not fit so to do, they were not fit to hold office, and should be turned out if they made appointments detrimental to the country's interests. The amendment would involve a fundamental error.

HON. G. RANDELL: The amendment would introduce in a bad form a principle which almost everyone had condemned, namely political influence. The appointment of the Commissioner should be an Executive act, Parliament exercising a general supervision only over the railways.

HON. J. W. HACKETT: Practically it would be difficult to give effect to the amendment. How could Parliament signify its approval of an appointment? By a joint resolution?

HON. J. W. WRIGHT: By the method provided in Sub-clause 4 of Clause 17, whereby both Houses could remove the Commissioner from office. If the Houses could consent to his removal, why should they not appoint him?

HON. M. L. MOSS: That consent was to be given after suspension. The instances were not parallel.

HON. J. W. HACKETT: Running through the Bill was the principle of keeping railway management free from political influence as far as possible. With regard to the approval there was a practical difficulty. Hardly any way could be mentioned that was feasible for signifying the approval of Parliament. Whom were people to canvass? Were they to approach the members, or act by resolution of one House or of both Houses? [MEMBER: Both Houses.] Even if there were not a majority of members present? [MEMBER: If members were not present, that would be their own fault.] If the hon. member wished to give effect to his amendment he (Dr. Hackett) was afraid that we should have to recast the Bill altogether. If we accepted the principle of the Bill, as we had done, he did not see how we could reintroduce the old system in this way.

Amendment negatived, and the clause passed.

Clauses 3 to 5, inclusive—agreed to.

Clause 6—Commissioner eligible for reappointment:

HON. J. W. HACKETT: Was it a fact that the present Commissioner had been appointed for five years with practically a promise in the contract for another five years?

THE MINISTER FOR LANDS: That was not true: he was only appointed for five years. He might have a year's leave of absence; that was all.

Clause passed.

Clauses 7 to 9, inclusive—agreed to.

Clause 10—Fares, tolls, and freights :

HON. J. W. WRIGHT: The Commissioner should have power given him under this clause to strike all fares, tolls, and rates for the reason already stated. The rates might be in operation months before they came before Parliament.

MEMBER: Such was not likely to be the case.

HON. M. L. MOSS: They had to be approved by the Governor in Executive Council.

Clause passed.

Clause 11—Classification :

HON. J. W. WRIGHT moved that the clause be postponed until the end of the

Bill, and until the interpretation clause had been dealt with.

Motion passed, and the clause postponed.

Clause 12—Powers of Commissioner over lines in construction :

HON. T. F. O. BRIMAGE: The question of the position of stations established in new towns should be remitted to the municipal councils or roads boards of the district. In the past we had had a lot of friction throughout the country in consequence of stations being put a good deal away from the original site of the town. Goldfields stations were three-fourths or half a mile from the busiest portions of the towns, and he thought the same thing had occurred in other portions of the State. Coolgardie station was quite a mile from the original site of the town. Take again Kalgoorlie station, and also look at Southern Cross, which was in the worst plight of the lot, being about a mile from the town. They called one part Railway Town and the other Southern Cross. He moved that the word "position," in line 1, be struck out.

THE MINISTER FOR LANDS: It would be a mistake to strike out the word "position." The Commissioner would take good care that the position of a station would be where it would give the greatest revenue to the railway. That would be where the largest amount of custom was obtained and the largest amount of population existed. In this respect we were, he thought, safe in the hands of the Commissioner.

HON. C. E. DEMPSTER: It would be very unfair to the public to place the power in the hands of the Commissioner instead of considering the convenience of the people.

HON. J. A. THOMSON: It was necessary to have an unbiassed opinion to decide where a new station should be located. He had found it to be the case that where a new station had to be decided upon, if one referred to the local bodies they wrangled among themselves. People who lived in one particular part went one way, and those who lived in the other went the opposite way. The gentleman who held the position of Commissioner should be unbiassed, and one believed that in this instance he always would be; therefore he would be the best

to decide in the interests of the Railway Department where a new station should be erected.

Amendment by leave withdrawn.

HON. T. F. O. BRIMAGE moved that after the word "position," in line 1, "with the advice of the local authority, who shall be provided with a plan of the proposed site," be inserted.

HON. M. L. MOSS: What was meant by "the local authority"? Whenever expressions occurred in a statute, one generally looked for the definition in the interpretation clause. Presumably in the majority of instances the gentlemen on the municipal councils and roads boards would be actuated by a desire to get the station as near their own property as possible. In reference to the agitation that had been going on for years past with regard to the erection of a railway station platform between Claremont and Cottesloe, it would be found that one section of the community were in favour of Uric Street and the other in favour of Congdon Street. There was only one way to deal with the question, and that was the way set forth in the Bill. Surely no Commissioner would erect a station where he did not anticipate population?

HON. R. G. BURGESS: Stations had been placed in some most absurd positions. Pass the clause, and Parliament would have no control. The situation of all such buildings should be decided by the Governor-in-Council. Why give the Commissioner power to run riot over the country, while he being in office for five years could not be prevented?

HON. M. L. MOSS: True, the Commissioner was in office for five years; but if the power of locating a station were abused, Parliament could pass an amending Bill. [HON. J. W. WRIGHT: Too late.] Any persons aggrieved by the position of a proposed station could interview the Minister, with whom the Commissioner would of course consult. Even now, such matters were left to be arranged by the permanent way heads; yet from the discussion one would think the point was serious.

HON. J. W. HACKETT: In the past there had been most serious mistakes; but the Bill was intended to remedy that state of things by removing the cause, namely the permission for the construction branch to do as it liked without con-

sulting with the working branch. All such mistakes had been made by the constructing engineers. A closer examination of the clause would convince hon. members that it was designed to attain their wishes. The Commissioner, instead of the Works Department, was to decide the position of stations; and he ought to know best. Moreover, the Commissioner could not spend a penny without the Executive Council. The Minister must pass the plans. This involved quite enough political influence, and was certainly a sufficient check. Regarding the rival sites for the station at Cottesloe, the worst had been selected in accordance with a resolution of the Lower House, the passage of which had been obtained by a gentleman who had canvassed members individually, and had succeeded in getting the majority to work a monstrous wrong to the railway system of the country. So much for outside influence.

HON. J. E. RICHARDSON: Members knew the various blunders made at Northam; and at Bunbury, though the local authorities had advocated a sensible route for the railway, the responsible officers had attempted by two unnecessarily round-about deviations to reach the jetty, being finally compelled to adopt the local proposal.

HON. J. W. HACKETT: For that the Public Works Department and not the Commissioner was responsible.

HON. J. E. RICHARDSON: This clearly proved local bodies should be consulted. Another fact. All stations on the South-Western line faced the point from which heavy winds were experienced. He supported the amendment.

HON. J. W. WRIGHT: In regard to the stations at Cottesloe and Cottesloe Beach, between £5,000 and £6,000 would have been saved if one station had been adopted to serve the two places. The actual state of affairs existed through listening to the engineering adviser, and not the local body. Cannington station was another instance, that being pretty well two miles out of the town.

HON. J. D. CONNOLLY: The clause as it stood was a very good one. If the amendment were passed and there was a difference of opinion, which opinion would prevail? The Bill was introduced

in order to do away with political influence, and if this amendment were adopted it would be opening the door very widely. In the Commissioner we had a man who was unbiassed, and would look at the matter purely from a railway point of view.

HON. C. E. DEMPSTER: The people knew best where a station ought to be, and they should be consulted. The local authorities ought to have a voice in such a matter, and where municipal councils and roads boards existed, they were the ones who should represent the district.

HON. W. T. LOTON: There was no part of Western Australia where a station was going to be constructed in a very short time without the local authorities very soon being "at" the Government of the day to represent their view as to the best position for the station. They were always awake when any public work was going on. There was no reason why we should add the words proposed. At the same time it seemed that we were giving a great deal of power to the Commissioner. The Commissioner was controlled to a great extent possibly, because he could not spend any money; still he had the right to decide these questions. It would be better that after "Commissioner" the words "with the approval of the Minister" be inserted. Under Clause 12 the Commissioner could decide these questions himself without reference. No one was responsible except the Commissioner, and the Commissioner was not in Parliament to be questioned on the subject. That amendment would, he thought, meet the view of Mr. Burges. [HON. R. G. BURGESS: Yes.] Mr. Burges suggested the Governor-in-Council, but there was no necessity for that.

HON. T. F. O. BRIMAGE: There was a good deal of evidence before the Committee this evening to show that local authorities should have some say in the matter, therefore he wished to see it tested. In regard to the construction of the Brown Hill loopline, three bodies conferred as to what would be the proper place for the station, the result being that there had never been any complaint since as to where the station had been fixed. The Commissioner himself would say which was the right place for a station to be in, but the local bodies ought to be consulted. Councils had not

had enough information in the past as to where these stations would be. A good number of stations would be erected on the Leonora line directly, and the least the Government could do was to acquaint the local authority where they intended to put them.

Amendment withdrawn for the time being, so that the amendment by Hon. W. T. Loton might be dealt with first.

HON. J. W. WRIGHT: Were the duties of the present Commissioner identical with those of the late General Manager? Because, if so, we had a clear case of a station being erected at Kalgoolie to suit private individuals.

MEMBER: He had greater powers than the General Manager.

THE MINISTER FOR LANDS: Mr. Loton's amendment, if passed, would again bring us into contact with political influence, which it was the object of this Bill to avoid. The latter part of the clause guarded us sufficiently, for although the Commissioner would decide the position, the construction was to take place by the Government of the day. That construction was entirely in the hands of the Public Works Department under the Public Works Bill, and if it were deemed to be unsuitable of course the construction would not take place.

HON. M. L. MOSS: During the debate on the Address-in-reply, he understood that a large number of members complained that the powers of the Commissioner were not sufficient—[HON. R. G. BURGESS: Not on that point]—and urged that the public were calling out loudly for nonpolitical control. We found now, however, that there was considerable opposition, and this did not appear very consistent with the speeches made on the Address-in-reply or on the hustings.

HON. T. F. O. BRIMAGE: The hon. member was not very consistent.

HON. M. L. MOSS said he was perfectly consistent with regard to this. The hon. member was at perfect liberty to tell him where he was inconsistent. It was an easy thing to make a statement, but a difficult matter to give specific instances to back it up. He had said all along that it would be in the best interests of the State to put the railways under nonpolitical control. His contention was with regard to Mr. George's

appointment; but that appointment had been made and could not be undone. We had to do the best with it, and he hoped the Commissioner would be an unqualified success. Clause 12 gave the Commissioner control of these railways to a certain extent, not fettered by political influence. Under Clause 9 the Minister was to make additions and improvements; he had to find the money, and of course if there were any blunder, the Minister would put his foot down and not allow it to be perpetrated.

HON. S. J. HAYNES supported the clause as drafted. The amendment would alter the character of the Bill. If Mr. George were the business man members took him to be, he would surely inquire from local authorities before deciding on the position of a station.

HON. R. G. BURGESS: The occurrences of the last month did not support that contention.

HON. S. J. HAYNES: The clause would make the railway management nonpolitical. Mistakes of a former management should not be debited to Mr. George.

HON. E. McLARTY opposed the amendment. Surely neither Minister nor Commissioner would erect stations without consulting local bodies.

HON. R. G. BURGESS: We should compel them to consult.

HON. E. McLARTY: As to Cottesloe and Cottesloe Beach stations, it was easy to be wise after the event. When the first station was erected in that locality, probably none anticipated the rapid increase of population. Leave the Commissioner power to select sites, and the power of the purse in the hands of the Minister.

Amendment negatived.

HON. T. F. O. BRIMAGE: Mr. Moss referred to the cost of stations. This was a question not of cost but of position. As an amendment, he moved that the words "with the advice of the local authority, who shall be supplied with a plan of the proposed station" be inserted after "position" in line 1.

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

Ayes	...	...	...	6
Noes	...	...	...	12
Majority against				6

AYES.
Hon. T. F. O. Brimage
Hon. R. G. Burges
Hon. C. E. Dempster
Hon. J. E. Richardson
Hon. J. W. Wright
Hon. E. M. Clarke
(Teller).

NOES.
Hon. J. D. Connolly
Hon. J. W. Hackett
Hon. S. J. Haynes
Hon. A. Jameson
Hon. A. G. Jenkins
Hon. W. T. Loton
Hon. E. McLarty
Hon. M. L. Moss
Hon. G. Randell
Hon. Sir George Shenton
Hon. J. A. Thomson
Hon. G. Bellingham
(Teller).

Amendment thus negatived.

HON. R. G. BURGESS moved that the words "with the consent of the Governor" be inserted after "shall" in line 1. There should be some limit to the power of the Commissioner. Without troubling to consult local authorities, the railway officers moved station and other buildings. About a year ago he had offered to do a certain work for the department, but without consulting him the department erected an obstruction to traffic on a railway siding; and similar experiences were common throughout the country. It was useless to talk as if the present Commissioner would be perpetual. We must look ahead.

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

Ayes	...	...	...	6
Noes	...	...	...	12

Majority against ... 6

AYES.
Hon. T. F. O. Brimage
Hon. R. G. Burges
Hon. E. M. Clarke
Hon. J. E. Richardson
Hon. J. W. Wright
Hon. C. E. Dempster
(Teller).

NOES.
Hon. J. D. Connolly
Hon. J. W. Hackett
Hon. S. J. Haynes
Hon. A. Jameson
Hon. A. G. Jenkins
Hon. W. T. Loton
Hon. E. McLarty
Hon. M. L. Moss
Hon. G. Randell
Hon. Sir George Shenton
Hon. J. A. Thomson
Hon. G. Bellingham
(Teller).

HON. T. F. O. BRIMAGE moved that after the word "Commissioner," line 1, "after forwarding a plan to the local authority" be inserted. The local authority at least should have some knowledge of what was going on in the place. A lot of public works had gone on without any of the councils or roads boards having any idea whatever of what was taking place.

HON. G. RANDELL called attention to the fact that the amendment related to a portion of the clause that had already been dealt with.

THE CHAIRMAN: The amendment could not now be put; but it could be dealt with on recomittal.

HON. T. F. O. BRIMAGE moved that progress be reported and leave given to sit again.

Motion negatived.

Clause passed.

On motion by the MINISTER FOR LANDS, progress reported and leave given to sit again on the following day.

RABBIT BILL.

OUT OF ORDER.

THE PRESIDENT called attention to the next Order of the Day, for the second reading of the Rabbit Bill. He said: The Bill says "the Minister may out of any moneys voted by Parliament for the purpose erect, maintain, and repair such fences as he may think fit on any Crown land or private land to protect any part of the State from the incursion of rabbits." Clause 66 of the Constitution Act says: "All Bills for appropriating any part of the Consolidated Revenue Fund, or for imposing, altering, or repealing any rate, tax, duty or impost, shall originate in the Legislative Assembly." Therefore I rule that the Bill must not be proceeded with in this House.

ADJOURNMENT.

The House adjourned at a quarter to 10 o'clock, until the next day.