printed at another period, but for the future it is proposed under the Bill to make it coterminous with the end of the financial year.

MR. BATH: That is June 30th.

THE MINISTER: Up to June 30th. These amendments are required to facilitate administration in the Public Works Department, and in no way attack any vital principle. I think the House will agree with me that the measure deserves favourable consideration.

MR. FOULKES: What about Clause 5?

THE MINISTER: It gives power to repair and maintain bridges and culverts erected either before or after the passing of the Act of 1902.

On motion by MR. BATH, debate adjourned.

BILL—STOCK DISEASES ACT AMENDMENT.

SECOND READING MOVED.

THE HONORARY MINISTER (Hon. J. Mitchell), in moving the second reading, said: This is a small amending Bill, necessary as the interpretation of the words "disease in stock" is somewhat ambiguous at present, and is intended to include tick and lice in sheep. This alteration is asked for on the recommendation of the Crown Solicitor, who advises that under the present Act it would be difficult to obtain a conviction. As members know, there are both tick and lice in sheep in the South-Western portion of the State, and we desire power to eradicate the pests by compulsory dipping. Members also know we have regulations which make dipping compulsory, and it is our desire to enforce these regulations in order that stock may be kept free from these parasites. The alteration to Section 11 of the Act is of importance. Under the original law an owner is given 24 hours in which to report any discovery of disease or infection to the stock inspector. We think this report should be made forthwith. It would be possible within 24 hours to allow infected sheep to come in contact with other stock in a locality. That is undesirable, and for that purpose we desire to have the section amended. A member interjects that it will be impossible for a man to give notice forthwith; but members understand that an owner of sheep has not always a stock inspector at his elbow. It is necessary to give notice with the least possible delay. This difficulty may occur under the original Act, for the notice may not have reached the inspector within 24 hours where sheep may be some distance from an inspector. That would not relieve the owner of the necessity of attempting to give notice. I beg to move the second reading of the Bill.

On motion by MR. BUTCHER, debate adjourned.

ADJOURNMENT.

The House adjourned at 17 minutes past 10 o'clock, until the next day.

Legislative Council.

Wednesday, 22nd August.

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

PRAYERS.

MOTION — INSANE PATIENTS, MAINTENANCE BY RELATIVES IN OTHER STATES.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) moved:—

That the Parliament of the Commonwealth of Australia be requested to pass a measure having for its object the maintenance of persons confined in hospitals for the insane or lunatic asylums of the various States, by relatives resident in a State other than that in which the person is so confined.

He said: Our Lunacy Act provides that

if a patient in a hospital for the insane have relatives residing in this State, they may be compelled to contribute to his support. That is, if they do not contribute voluntarily, they can be sued. But the Attorney General has advised that when a patient's relatives reside in any other State, the Government of this State cannot legally enforce any contribution, and this is the law throughout Australia. The Prime Minister of the Commonwealth has intimated that if he is requested by two or more States to do so, he will introduce a Bill in the Federal Parliament to provide that a patient's relatives residing in any State other than that in which the patient is confined may be compelled by law to contribute to the patient's support. This motion has been passed by the Parliament of at least one other State, Tasmania. I am not quite certain whether it has yet been passed by the South Australian and Victorian Parliaments; but if not, it is under consideration by them. It has already been passed in another place, and I have much pleasure in moving it here.

HON. W. KINGSMILL (Metropolitan-Suburban): I second the motion.

Question put and passed.

BILL—THIRD READING.

Permanent Reserves Rededication, returned to the Legislative Assembly.

BILL—LEGAL PRACTITIONERS ACT AMENDMENT.

IN COMMITTEE.

Resumed from the 15th August, on the following amendment moved by Hon. M. L. Moss: "That the words 'or is a barrister and solicitor of the Supreme Court of New Zealand, and has practised there as such for upwards of 10 years,' be added to Subclause (*c*)."

HON. S. J. HAYNES: While disapproving of the Bill generally, he could not conscientiously vote against the amendment, in view of the strong case made out by Mr. Moss for the admission of one who was apparently a very able and estimable gentleman. This was a special case. However, Mr. Moss should modify his amendment by adding the words, "provided he passes an examination in the statute laws of this State."

HON. R. F. SHOLL: While the principal Act imposed stringent conditions on the admission of articled clerks who had to serve five years for nothing before admission, it was unwise, unfair, and impolitic to make an exception for the benefit of one man; and worse, the amendment would not only open the door to him, but would not close it. We should thus create a privileged class who, without serving articles, could enter the profession by the back door. Such patchy legislation should be discountenanced in any sensible community. If we wished to liberalise the profession, liberalise the principal Act, not with a view to special cases, but in respect of articled clerks' fees and conditions generally. He objected to the whole principle of the Bill.

HON. J. W. HACKETT: This man would be subject to fees?

HON. M. L. MOSS: Yes.

HON. R. F. SHOLL: But not to examinations.

HON. M. L. MOSS: Why subject to examination a man whom three Judges sitting in the Full Court said was amply qualified to practise his profession?

THE COLONIAL SECRETARY: There was an objection to legislate for one particular person.

HON. M. L. MOSS: The Government were legislating for three; there was not much difference.

THE COLONIAL SECRETARY: It was made very clear by Mr. Moss that his amendment was intended for the admission of one person only. When introducing the measure he (the Colonial Secretary) stated that the Bill dealt with managing clerks who had peformed a certain service in a solicitor's office. It was not admitted that the Bill was introduced to enable three persons to be admitted to the legal profession. On the ground that legislation should not be passed for the benefit of one person only he would vote against the amendment.

Amendment put and negatived.

HON. T. F. O. BRIMAGE moved that at the end of Subclause (*c*) the following be added:—

Provided that the Barristers' Board may, on being satisfied that sufficient reasons have been advanced in support of same, make an

order in the case of any particular applicant that the applicant shall not be required to pass an examination in general knowledge.

In a former clause applicants were called on to serve 10 years in a lawyer's office and obtain a certificate from the Barristers' Board that they were fit and proper persons to be admitted to practise the law. A similar Bill to this was before the House of Commons, when leading lawyers and others spoke in favour of managing clerks being admitted to practise in England, and the full text of the remarks made when that Bill was passing could be found in the English *Hansard*, volume 157, page 10, and volume 158, page 513. Lord Chelmsford, when introducing the Bill, stated that he thought the measure would raise the standard of the legal professsion.

HON. R. F. SHOLL: Was the Bill passed?

HON. T. F. O. BRIMAGE: Yes. Members would be doing what was right and just by passing the amendment. Clerks who had been in a lawyer's office for ten years could be admitted.

HON. J. W. HACKETT: If they had been at the books all the time?

HON. T. F. O. BRIMAGE: They must be managing clerks, and these gentlemen generally held the position of conveyancing clerks: they had as good a knowledge of law as their principals. Before a man obtained the position of managing clerk he had to show that he possessed a considerable knowledge of law. In addition to passing the two final examinations an applicant had to obtain from the Barristers' Board a certificate to enable him to make the necessary application to be admitted. There was a guarantee that a man had been a reputable citizen for ten years. The Attorney General was agreeable to the amendment.

HON. S. J. HAYNES: The hon. member had referrred to a Bill which had passed the House of Commons, but which dealt with attorneys, and managing clerks in England were not managing clerks in name but in reality. In this State the professions were amalgamated; therefore the position of barrister should be held only by gentlemen of certain educational standing. Any young man with ordinary intelligence could pass the examinations to which he was subjected here. It was against the interests of the State to lower the standard, which was reasonable now. If we passed the amendment we should allow a type of gentlemen to be introduced into the legal profession which would be disastrous to the general public.

HON. C. SOMMERS: When Captain Laurie's amendment was defeated, it was thought the matter of examinations had been settled. According to the original Act an articled clerk must pass a preliminary examination and then he had to pass the intermediate and final examinations before being admitted. The public generally and applicants were quite satisfied with having to pass the intermediate and final examinations. It was not fair that persons who had left school for many years should have to pass an examination in general knowledge now. The amendment did not provide that the applicants should have been managing clerks: they might have been employed in any capacity whatever in a lawyer's office.

HON. T. F. O. BRIMAGE: That followed according to Subclause (*c*).

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

Ayes	...	...	3
Noes	...	...	22
Majority against		...	19

AYES.	NOES.
Hon. J. D. Connolly	Hon. H. Briggs
Hon. C. A. Piesse	Hon. E. M. Clarke
Hon. T. F. O. Brimage (*Teller*).	Hon. F. Connor
	Hon. C. E. Dempster
	Hon. J. M. Drew
	Hon. J. W. Hackett
	Hon. S. J. Haynes
	Hon. Z. Lane
	Hon. J. W. Langsford
	Hon. R. Laurie
	Hon. W. Maley
	Hon. R. D. McKenzie
	Hon. E. McLarty
	Hon. M. L. Moss
	Hon. W. Oats
	Hon. G. Randell
	Hon. R. F. Sholl
	Hon. C. Sommers
	Hon. J. A. Thomson
	Hon. Sir Edward Wittenoom
	Hon. J. W. Wright
	Hon. W. T. Loton (*Teller*).

Amendment thus negatived.

Clause as amended put and passed.

Clauses 3, 4—agreed to.

Clause 5—Power to Barristers' Board to dispense with portion of term:

HON. R. F. SHOLL: Such extensive power should not be given. The terms of admission were sufficiently easy, and it was not right that the Barristers' Board or any other body should have the power under an Act of Parliament to vary or lessen the conditions of admission.

THE COLONIAL SECRETARY: This was a very small matter. The Bill had been considerably amended in the direction of making the conditions of admission more severe, and the mover should be satisfied. The Barristers' Board was usually constituted of leading members of the profession, and their discretion would be exercised wisely.

HON. S. J. HAYNES hoped the clause would be struck out, as members of the Barristers' Board would be in the invidious position of being liable to be button-holed by applicants desirous of obtaining a reduction of the conditions.

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

Ayes	...	...	12
Noes	...	...	12
A tie ...	...	...	0

AYES.	NOES.
Hon. H. Briggs	Hon. E. M. Clarke
Hon. T. F. O. Brimage	Hon. C. E. Dempster
Hon. J. D. Connolly	Hon. J. M. Drew
Hon. F. Connor	Hon. S. J. Haynes
Hon. J. W. Hackett	Hon. Z. Lane
Hon. R. Laurie	Hon. W. Maley
Hon. R. D. McKenzie	Hon. E. McLarty
Hon. M. L. Moss	Hon. W. Oats
Hon. C. A. Piesse	Hon. G. Randell
Hon. C. Sommers	Hon. R. F. Sholl
Hon. J. A. Thomson	Hon. J. W. Wright
Hon. J. W. Langsford (*Teller*).	Hon. W. T. Loton (*Teller*).

THE CHAIRMAN gave his casting vote with the Ayes.

Clause thus passed.

New Clause—Bachelor of Laws, how admitted:

HON. M. L. MOSS moved that the following stand as Clause 3:—

Any person who (*a*) shall have completed the term of ten years as a clerk in the office of a practitioner or practitioners practising in Western Australia, and shall have obtained the degree of Bachelor of Laws in some university in the British Dominions recognised by the Barristers' Board; (*b*) Shall have obtained from the Barristers' Board a certificate to the effect that he is, in the opinion of the Board (whose decision shall be final), a fit and proper person to be admitted a practitioner, shall be qualified to be and, subject to the provisions of the principal Act and the rules, may be admitted a practitioner.

We would not be admitting unqualified persons. To get the degree of Bachelor of Laws the applicant would need to pass a much harder test than the examinations now prescribed by the Barristers' Board, also he would be required to complete the term of 10 years as clerk in the office of a practitioner.

THE COLONIAL SECRETARY: There was no objection to the clause. A man who obtained a university degree and served ten years in a legal practitioner's office in Western Australia would be well fitted to be admitted to the bar.

HON. R. F. SHOLL: This was the same old thing. It would do away with all the examinations, and the applicants would pass no examination on law. While we laid down restrictions in the principal Act we should not pass amendments such as this. Any radical measure seemed to find acceptance by the Government, but had the Government of 18 months ago proposed such a thing it would have been thrown out by members of the Legislative Council.

HON. J. W. HACKETT: This clause provided for a much stiffer examination than the final examination prescribed under the Act.

HON. M. L. MOSS: In Victoria it was provided that a person might be admitted to practise after serving the full term of five years under articles or as associate to a Judge, and it provided that the applicant should, after taking the degree of Bachelor of Laws or Bachelor of Arts at the Melbourne University or at any University recognised by the Melbourne University, become an articled clerk for three years. Here we provided that after taking a degree, he should serve 10 years.

Question passed, the clause added to the Bill.

HON. M. L. MOSS gave notice that he would move to add a new clause providing that a person would be qualified for admission after serving five years as associate to a Judge.

Progress reported, and leave given to sit again.

BILL—GOVERNMENT SAVINGS BANK.

IN COMMITTEE.

Resumed from the previous day.

The Schedule:

THE COLONIAL SECRETARY desired to move an amendment to Clause 10.

THE CHAIRMAN: The Bill must be recommitted for that purpose. The clause had already been passed.

HON. M. L. MOSS: Were we in Committee to consider one clause only?

THE CHAIRMAN: The Bill was not recommitted but was in Committee, and progress had been made as far as Clause 39. It was now proposed to move an amendment to Clause 10. He could not accept the amendment at this stage.

HON. M. L. MOSS: Then it was not competent without recommittal to reconsider Clause 30?

THE CHAIRMAN: Certainly not.

Schedule put and passed.

Title—agreed to.

Bill reported with amendments, and the report adopted.

RECOMMITTAL.

Bill recommitted for amendments to Clauses 10 and 30.

Clause 10—Limit to deposits:

THE COLONIAL SECRETARY moved an amendment—

That Subclause 2, "No deposit shall be of less amount than one shilling" be struck out and the following inserted in lieu:—"Subclause 2, Except as provided by regulations no deposit shall be of less amount than one shilling."

It was now the practice in the Eastern States to appoint school teachers as agents for the Savings Bank. This was in order to encourage thrift amongst school children who might give their pennies and small money to the school teacher acting as agent for the Savings Bank. The Bill at present provided that the Bank could not accept as the first deposit less than one shilling. The amendment would enable regulations to be made providing that a less deposit than one shilling could be accepted.

HON. G. RANDELL: That would be confined to school teachers?

THE COLONIAL SECRETARY: Yes. The intention of the amendment was laudable.

HON. H. BRIGGS supported the amendment. Of his own knowledge he could say that the appointment of school teachers as agents for the Savings Bank would encourage thrift among children attending schools.

HON. R. F. SHOLL: The thrift of school children should be a matter for the parents; and there was a danger that the proposal might open the door to possible breaches of trust.

THE COLONIAL SECRETARY: The hon. member (Mr. Sholl) probably had in his mind the conditions which obtained in towns, where parents could, without trouble, deposit the small savings of their children; but that convenience did not exist in many country districts. A system similar to that now proposed had worked well in country districts in New South Wales and in Victoria. This provision was intended mainly, almost entirely, for country districts in this State.

Amendment passed; the clause as amended agreed to.

Clause 30—Government not liable for fraudulent withdrawals:

HON. M. L. MOSS: After farther consideration of this clause, and having conferred with other members, he realised that he had voted wrongly at a previous sitting, and was now convinced that the clause was too wide and would place the Savings Bank in a position which was not desirable. It was true that a Savings Bank differed from that of a bank of issue, in that a fraudulent withdrawal might be effected in the latter case by means of a cheque-form taken from any cheque-book, whereas in the case of a savings bank the depositor's pass-book must be produced before a withdrawal could be made. But it had been pointed out that an officer employed in the Government Savings Bank might act in collusion with a customer, or a pass-book might be stolen and an officer of the bank be in collusion with the thief for the purpose of fraudulently withdrawing money. In such circumstances, a Government Savings Bank should not escape its responsibility.

THE COLONIAL SECRETARY: Was that likely to happen?

HON. M. L. MOSS: Could not say what was likely to happen, but was dealing with what was possible. It was the duty of the Government to see that every officer of the bank should provide a fidelity guarantee, so that the Government might be protected in the case of fraud by an officer. In the unlikely

contingency he had outlined, the guarantee company would not be obliged to pay anything in respect of fraud or misappropriation by an officer, because a guarantee company would indemnify the Government only when it was a loser, and under this clause the Government would not be liable for the money. He was prepared to protect the Government to a large extent, but the immunity given by this clause should be safeguarded. To that end he moved an amendment that the following words be added:—

Unless the depositor proves that he took all reasonable and proper precautions for the safe custody of his pass-book.

This amendment did not interfere much with the clause as proposed by the Government. Some members had previously argued that the clause should be struck out, but he did not agree with that view.

THE COLONIAL SECRETARY could not accept the amendment. One was the more surprised at the attitude of the mover, because he had been the only member to speak in support of this clause on the second reading; and had spoken so convincingly that it was not necessary for him as Leader of the House to defend the clause. Yet the same hon. member had to-day moved to recommit the Bill for amending this clause. Apparently the hon. member did not, before speaking, give that consideration to a subject which he should give, and did not seem to know his own mind for two days together. It was all very well to cite a mythical case that might occur through the collusion of an officer of the bank with some person outside. There had been one or two cases in this State in which the Savings Bank had been defrauded by an officer, but only one case had occured in the manner suggested by the mover of the amendment. Was it reasonable to assume that in such circumstances any Executive would decline to recognise the justice and reasonableness of a claim? In connection with the instance he had quoted, though there had been no legal obligation to pay the depositor the amount of which the bank had been defrauded in his name, the amount was paid. Such cases were provided for by regulation, and had been since the institution of the Savings Bank; they were similarly provided for by regulation in Queensland and in Victoria, in neither of which States was the Government legally responsible. One case had happened in Victoria, which might possibly happen here. The son of a man named Levy obtained his father's pass-book and secured a withdrawal from the bank of £60. Levy sued for the amount and obtained a verdict with costs; but that judgment was reversed on appeal by the commissioner controlling the bank in Victoria. What was being done to-day by regulation was legal.

HON. M. L. MOSS did not say it was not legal; but was it desirable?

THE COLONIAL SECRETARY: It was desirable for the reason that the Savings Bank dealt in accounts totalling some £4,000 at the present time, and it was impossible for the manager or officers of the bank to be quite certain of the signature of every customer. No withdrawal could be made without notice and production of a pass-book, which the thief must steal prior to forging the signature. Seldom would the thief be a successful forger. If the forgery were committed by a Savings Bank official, the Government would pay; but to ask the Government to make good losses arising from ordinary forgeries was unfair. Savings bank withdrawals were not frequent; hence it was hard for the bank officials to be certain of signatures. The depositor paid only one shilling, and received interest, whereas ajoint stock-bank would pay him no interest and charge him £1 1s. per year; hence, in view of the special benefits conferred on the depositor by the savings bank, it should not have the responsibilities of an ordinary banker. The clause was the law in three other States, possibly in all.

HON. M. L. MOSS: The Minister should have learned that it was not always expedient to reprove members for altering their opinions. Because he (Mr. Moss) had formerly supported a similar clause, he was now accused of not knowing his own mind. Unlike the Colonial Secretary, he was not infallible. The Bill sought to consolidate and amend the law; hence this was a proper opportunity for amendments. The Minister said there

had been few cases of fraudulent withdrawals. If so, it would not hurt the country to indemnify the victims. Such frauds were unlikely unless a bank official was in collusion with an outsider. But every officer of the bank should be guaranteed, and then the loss would fall on the guarantee society. Members should consider how they could justify their support of the clause if any of their constituents had his savings mopped up by a fraudulent withdrawal. The Minister asked whether any Government would take advantage of a fraud perpetrated in collusion with a public servant. Possibly not; but why not modify the clause to prevent such advantage being taken? A passbook, even if locked up, could easily be stolen.

HON. J. M. DREW: For his action Mr. Moss deserved commendation rather than censure. At Geraldton a Chinaman had £30 to deposit in the savings bank. An officer went to the depositor's house, and received and stole the money. The Chinaman sued the Government, but lost the case, as he had not deposited the money in the post office.

THE COLONIAL SECRETARY: Mr. Moss's amendment would not cover that case.

HON. J. M. DREW: No; but it showed that a Government sometimes acted wrongly. Any respectable business house would have taken the responsibility for the act of its servant. Some years ago a pastoralist in the Geraldton district was victimised by forged orders for some £900, and did not obtain justice till he appealed to the Privy Council. The whole clause should be struck out. The Government should shoulder the same responsibilities as private bankers. The clause, if passed, would shake public confidence, for the credit balance in a passbook would then be the value of the book—perhaps £1,000. A subordinate bank official might hand the pass-book to a person outside. It was the duty of the bank officials to know the signatures of their customers. In few cases had forgeries been successfully perpetrated on banks.

HON. C. SOMMERS: If a man lost a £5 note which was issued by an associated bank, the bank would not pay that man £5.

HON. M. L. MOSS: If he could prove the number of the note the bank would have to pay.

HON. C. SOMMERS: It might take ten years to get the money. The Savings Bank in the past had been run with little profit to the State. Last year the profit on the transactions of the bank amounted to £850. The bank was being run to the advantage of 60,000 depositors, and seeing that the margin of profit was so small it was not right that the Government should be subjected to any loss. The Government were asked to provide facilities for people of small means to deposit their money so as to obtain interest from the day the deposit was made. Was it right that the Government should be asked to take all kinds of risks? If the Savings Bank were conducted in a similar manner to what had been the case in the past, all we might hope to see was that it would clear expenses. He suggested that at the end of Clause 30 some provision should be made so that in cases of fraudulent withdrawals of money made by officers of the bank or with the knowledge of officers of the bank, the Government should be compelled to pay.

On motion by Hon. WESLEY MALEY, progress reported and leave given to sit again.

BILL—PHARMACY AND POISONS ACT AMENDMENT.

SECOND READING.

Debate resumed from the 14th August.

HON. J. W. LANGSFORD (Metropolitan-Suburban): This measure is a very brief one, and one of some importance to the public of Western Australia. It endeavours to amend in one or two particulars the Pharmacy Act of 1894. The Pharmacy Act of 1894 was passed for the protection of the people of Western Australia so that no unqualified persons should have dealings in poisons which chemists deal in. For 12 years this Act has worked very well, although a slight amendment was made in 1903. The present Bill provides for three things. In Clause 2 an addition is made to one

of the sections of the Act which restricts those who are qualified to deal in medicines, drugs, or poisons. Clause 3 provides for certain penalties, and Clause 4 for getting rid of the term "herbalist," unless it is applied to duly qualified chemists. If this measure is in the interests of the public at large, then I think we should give it our earnest consideration and pass it into law. The first clause deals with those who shall sell or offer for sale certain things. It is an addition to Section 38 of the principal Act, and Section 38 provides that a pharmaceutical chemist or a duly qualified medical practitioner may carry on the business of a chemist, and only these shall be permitted to offer for sale or exhibit for sale any compound, or dispense any medicine, drug, or poison, whether on the prescription of a medical practitioner or not. This I think will affect in some degree those who are living in the country. Mr. Moss, who introduced the Bill, has told me that he is not anxious that the subclauses of Clause 2 shall become law, because they will affect many places in the country where storekeepers have for sale medicines, although the word medicine does not seem to be defined in any of the Acts on our statute-book, and there are many simple remedies which storekeepers sell which might come under the head of medicine. I think it will be a great hardship if this clause as it stands is passed into law. In regard to Clause 3, which provides for certain penalties, I understand this makes the machinery of the law less expensive in getting at those who are convicted of breaches of the Act. Anything that will make law less expensive and reach those whom it is endeavouring to punish should be accepted. In Clause 4 it is proposed that only those who are registered as chemists or legally qualified practitioners shall be qualified to use the word "herbalist." In inserting this provision, while no one wishes to protect in the slightest degree those who are guilty of any improper practices under this head, I think the House should protect those who are fairly and properly carrying on the business of a herbalist; and I am given to understand this is a distinct branch of chemists' work.

HON. M. L. MOSS: But they carry on other things.

HON. J. W. LANGSFORD: Well, I think instead of punishing a man who is honestly and faithfully carrying out the work of a herbalist—and I am informed that all over Australia there are many who are carrying on the business—while protecting them there should be some means of getting at those who carry on illegal practices. I do not know this of my own knowledge, but I know herbalists in Australia have conferred on many branches of the community a great benefit, and I think before we restrict this term to chemists, druggists, and medical practitioners some good reason ought to be shown by Mr. Moss, who is in charge of the Bill, why this alteration should be effected. There are many persons who have been carrying on business in Perth for some years, and no charge of any kind has, as far as I know, ever been made against them for doing other than what a proper herbalist ought to do in carrying on his business in a proper manner. If these men are a menace to the public we ought to have some information before we agree to destroy them.

HON. M. L. MOSS: Move for a select committee.

HON. J. W. LANGSFORD: Before doing an injustice to any class of men, we ought to have some evidence that there are no genuine herbalists in Australia or Western Australia. The previous measure we had before us dealt with opening the door to legal practitioners. This is an endeavour to close a door. We must be careful that we do not close the door against any worthy person. The suggestion made by Mr. Moss, that this Bill might go to a select committee in order that these particulars could be forthcoming, is well worthy of consideration; but I do ask the House to hesitate before it does what I think would be an injustice (in our present knowledge) to those who are carrying on the business of herbalist. I do not intend to move the rejection of the Bill, but I hope that some provision such as I have outlined will be made. Those herbalists cannot qualify as pharmaceutical chemists unless they have served four years' apprentice-

ship in Western Australia, or hold a degree from some university recognised by the Pharmaceutical Society. I hope that before this Bill passes into law the suggestion to appoint a select committee will be acted on, and that the committee will look into the question in order that we may act fairly while protecting in the fullest degree the interests of the public.

HON. W. MALEY (South-East): Like the member who has just spoken, I see a danger in taking away from persons in business the right to sell drugs and medicines in those parts of the country where there are no chemists' shops. In New Zealand and other more settled places it may be possible to place in the hands of those best qualified to deal with drugs and medicines the trade in those commodities; but situated as we are in Western Australia, with large tracts of country sparsely occupied and chemists' shops few and far between, it is necessary that we should pause before taking the step we are now asked to take. I can see the wisdom of taking that step at some future time, but that time is not yet. It is premature to stop the sale of drugs and medicines as proposed in the second clause. I do not offer any objection to the Bill, because I recognise the wisdom of the hon. member in introducing it; but I hope that the suggested committee will be able to make the Bill such as this House can support.

HON. F. CONNOR (North): I fear that the Bill in its present form will entail a great hardship on people in outlying districts who would be unable to provide for their requirements. I understand from the member who introduced the Bill that he will not insist on the subclauses of Clause 2; and as he has agreed to have the Bill referred to a select committee, I shall support the second reading on that understanding.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): I trust that the House will not agree to this measure, at any rate in its present form; and I, speaking on behalf of the Government, cannot accept any responsibility for the measure. I understand from Mr. Connor that the mover has stated he is agreeable that the subclauses of Clause 2 should be excised; but it seems to me that Clause 2 contains the whole substance of the Bill.

HON. M. L. MOSS: No; it does not.

THE COLONIAL SECRETARY: The hon. member who introduced the Bill does not evidently attach much importance to these subclauses; but had I introduced the Bill I should consider them very important. However, he is probably right in not attaching importance to this clause.

HON. M. L. MOSS: I did not say so. You said that was the whole gist of the Bill.

THE COLONIAL SECRETARY: I was going to say that the hon. member apparently does not attach much importance to the Bill. To my mind, this clause contains the whole kernel of the Bill; and in moving the second reading he studiously avoided any reference to that clause. Therefore, I cannot compliment him on his mode of introducing the Bill.

HON. M. L. MOSS: I am not looking to you for compliments at all.

THE COLONIAL SECRETARY: I do not care whether the hon. member takes them as compliments or not.

HON. M. L. MOSS: I say I am not looking for compliments from you.

THE COLONIAL SECRETARY: On the second reading he studiously avoided that clause, which is certainly the essential clause of the Bill. He spoke of other countries where this legislation is in force, and where chemists are subject to certain penalties; and he referred to clauses dealing with penalties, these being minor matters. This Bill, if I may be permitted to say so, is a somewhat unusual one for a private member to introduce, because its provisions affect every person in the State, and therefore is not a Bill having a special or local interest. I do not say that a private member has not a right to introduce any Bill he may think fit, even up to a Bill for amendment of the Constitution; but in this case the procedure is the more unusual because there have been requests for a Bill of this particular nature from the Pharmaceutical

Society to many Governments in the past. My reason for saying that I was surprised at the action of the hon. member in not speaking on Clause 2 when moving the second reading of the Bill is that the particular clause proposes an important alteration in the present law. One member has remarked, in speaking on another measure, that the legal profession was said to be a close corporation. This legal member, at any rate, is endeavouring to make the Pharmaceutical Society a very close corporation. Members will see that if they pass this clause in its present form it will prohibit the sale of any patent medicine or anything containing a drug, or that can be classed as a medicine. In the city or in any town I admit this would be no hardship; but in the country districts it would inflict a great hardship. In many country districts there are no registered chemists; and the people would not be able to obtain any drugs or patent medicines—and by the way patent medicines are often prescribed even by medical practitioners, but under this Bill none of these things could be sold except by chemists. A person could not then buy a packet of salts, or Beecham's pills, or Warner's Safe Cure, Pain-killer, or any of the well-known remedies. Mr. Moss says it is not right for any other than a qualified man to be allowed to sell poisons. He doubtless knows it is already provided that before any man can sell poisons he must get a certificate from the Pharmaceutical Society. I do not know any particular reason why competition should be kept from this class of business to the extent which the Bill proposes. There are a number of practising chemists in this State who, with all deference to them, are no better qualified than they should be. Many of the members of the Pharmaceutical Society in this State cannot have a very extensive knowledge of medicine, or of drugs at any rate, because when the Act of 1894 came into force any man who had been practising here for a certain number of years—I do not remember how many years—was admitted to membership of the society without any examination. [MEMBER: What about doctors?] I do not know as to doctors, but some of the pharmaceutical chemists in Western Australia are not of the very best. That of course does not apply to all the chemists: there are some excellent men amongst them. But there are men practising here to-day who are not as well qualified as the men whom this Bill seeks to prevent from selling drugs and medicines. I have no more to say; but I repeat that I trust the House will not pass the Bill in its present form.

HON. G. RANDELL (Metropolitan): I certainly think the Bill now before the House is drastic in character, and I am not prepared at present to give it my support, because I think it will work a hardship in many parts of this great State. I do not know that there is any necessity to refer to the question whether a private member should introduce a Bill of this kind. Whether it be introduced by the Government or by a private member, the object of the Bill is to deal with certain persons who are practising somewhere to the injury of the general public. But we must bear in mind that the Bill may operate in another way—by preventing persons who have a good knowledge of herbs, and who can compound them for the benefit of their fellows, from doing so. From my boyhood I can remember how many of these simple remedies so compounded were very efficacious in alleviating pain and suffering, and in some cases restoring health. It is all very well for us to laugh at the man who claims to have a knowledge of the compounding of herbal remedies; for there are men in all ranks of life who, by having a knowledge of herbs, have been able to discover remedies that have done great good to humanity. I believe there are in Perth practising as herbalists, men of repute and good character, who have accomplished good results. I have been given information from a source that I can rely upon, of a case which occurred on the Murchison goldfields. A man engaged in a mine lit a fuse, which did not go off to time. He went back to investigate, and arrived just in time to receive the force of the explosion; with the result that he was seriously injured. He was treated on the goldfields for a time, was then sent to Perth, and after six months

treatment here he went into a hospital at Melbourne to obtain the best advice of specialists in eye and ear troubles practising there. He remained in that hospital nine months, and his hearing was restored, but the doctors there were unable to effect any improvement to his injured eyesight. So impressed were those persons with the sadness of his case that they made provision for him to be received in a Melbourne institution. But the man—I do not know whether he was young or old—was a man of spirit, and said he did not want to be confined in an institution, and he elected to come back to Western Australia. On his return here he was recommended to try one of the local men who practise the dispensing and treatment by herbs, with the result that in a very short time the man's eyesight was restored. I understand that he afterwards answered an advertisement for a man required to drive a doctor's conveyance; and hon. members will see the irony of the case when I add that this man was selected for that position by the doctor. The man is now in Fremantle and is in the enjoyment of his sight, which was restored to him by the action of herbs compounded by one of those men known as herbalists.

HON. J. A. THOMSON: I am glad to know the days of miracles are not yet past.

HON. G. RANDELL: I do not know whether the interjector is in earnest; but if he doubts the facts I have stated, he may have chapter and verse. The man is still in Fremantle, and the hon. member may see him and may also see the herbalist who cured him.

HON. J. A. THOMSON: I still repeat that the days of miracles are not past.

HON. G. RANDELL: I do not say it was a miracle. I believe that there are herbs that, if properly compounded, will be beneficial in many diseases. What I am concerned with at present is that we should take care not to inflict any hardships under this Bill. Most medicines are compounded with drugs, and some of the most virulent poisons are compounded by doctors and used in homœopathic treatment, and they do great good to those who make proper use of them. The whole Bill, to my mind, goes a great deal too far, very much farther than is required to meet the circumstances. I am not inclined to support the drastic provisions contained in it, for I feel they are not in the interests of the general public. I do not know why chemists should be protected to the extraordinary extent proposed in this measure, when in other directions we are liberalising our legislation. I draw the attention of members to Subclauses 1 and 2 of Clause 2, and desire to indicate my opinion that the Bill should not be passed into law without a searching investigation by the suggested select committee. I agree with the intention of the Bill, to prevent a continuance of those practices which are illegal; but the provisions of this measure are altogether too drastic.

At 6.34, the PRESIDENT left the Chair.
At 7.35, Chair resumed.

HON. S. J. HAYNES (South East): Former speakers have practically raised the objection I wish to take to this Bill. I do not wish to reiterate, but I contend that Clause 2 will work a hardship on people in country districts. In Albany one of the leading merchants, like others, sells amongst his wares patent medicines that are in use throughout Australia, and some of which are I believe exceedingly useful and a boon to suffering humanity, whether they are patent medicines or not. In order to protect his business on general lines and to meeet the wants of the suffering public, the storekeeper is compelled to do that at present. No doubt no injustice will be done to the merchant by this Bill, but certainly he will have additional expense. He must go in for dispensing in order to keep these patent medicines, and so protect his trade rather than break the law. Also there would in that case be no injustice done to the people. The only thing would be the expense to the general merchant, and probably his business could afford it; but in country places the storekeeper could not afford it. Under the old Act patent medicines are excepted beyond a radius of 20 miles from a chemist's place of business. This

Bill goes farther, and any country storekeeper would be dragged up and fined no matter how good his name was. Owing to the exigencies of people in this country and the great distances between the townships, it would work a hardship and a great injustice on the small storekeepers. It would not possibly pay to have properly qualified chemists in these places, and it would mean that most of the country people would have to send to a town at considerable expense, or maintain a little medicine shop in their own houses.

HON. G. RANDELL: And under this Bill I believe they would be liable.

HON. S. J. HAYNES: They would be liable if they kept medicines for sale, and possibly people might be liable if they sold a bottle or two to a friend in the country in order to alleviate pain and suffering, as anyone would do. I trust in Committee members will look into this question. I believe the clause will be opposed. I do not know whether Mr. Moss intends to proceed with the clause. If he does not it is no use for me to deal farther with it. As regards Clause 4, I will hear what the select committee have to say. I do not go to herbalists myself, but I have friends who have confidence in them. I have always gone to duly qualified practitioners for any ills I have, but friends of mine have told me of the good results from the treatment by these herbalists when other doctors have failed. At the same time I am perfectly satisfied that some of these herbalists may be very good men, and may do good. I am not in sympathy, and no right-thinking person can be in sympathy, with any person carrying on malpractices under any guise. I understand from what has been said that herbalists have carried on practices of the worst kind. But at the same time, whilst that type should be hunted down and punished most severely, a class of individual who may be useful in the community may also suffer. Some other provision may be made to deal with those carrying on the malpractices complained of, but I think that, if a select committee be appointed, such committee may see whether we should not protect the herbalist carrying on a proper and legitimate calling for the purpose of alleviating suffering and doing good.

HON. J. A. THOMSON: Under certain circumstances you would protect a bush lawyer, then?

HON. S. J. HAYNES: No, I would not. The difference between a herbalist and a bush lawyer is, I understand, a herbalist practices one item and makes himself perfect in it, whereas a bush lawyer knows everything. I would treat any duly qualified lawyer who was guilty of malpractices as roughly as I would a herbalist who commits malpractices.

HON. M. L. MOSS (in reply): In view of the expressions of opinion which have fallen from members, I do not propose to persevere with Clauses 2 and 4, but shall be content to get this Bill passed simply to provide penalties for non-compliance with the regulations made by the Pharmaceutical Society. The Leader of the House complained about my taking up a matter of this kind, and said it is hardly within the province of a private member to deal with this question. The council of the Pharmaceutical Society asked me to bring the matter forward. The Pharmaceutical Society is a very important public body created by statute, and charged with the administration of the Pharmacy and Poisons Act of 1890, performing an important service to the Government of the country, without any charge at all upon the country's revenue. They provide for the examination of persons qualifying to dispense medicines and so forth, and they are charged with the administration of the Act and prosecuting persons who commit a breach of the provisions of the statute, which is intended to protect the public in numerous ways. Consequently I cannot be accused of interfering in any way with the Government's policy; because it is only on that account the hon. member has any just cause of complaint. That is the last thing I want to do. The last thing I desire to do is to have any hand in a good deal of the policy of the Government.

THE COLONIAL SECRETARY: You are not likely to have much. You need not worry.

HON. M. L. MOSS: That is quite true. I should be the last to bring down taxation proposals such as we are to be treated to at the present time. But I need not discuss that just now. I shall have another opportunity. All I want to say is that I cannot here subscribe to the statement of the hon. member that practically a member of this House should only concern himself in matters in his own province. I have never taken up that position in the House, and I think the statute-book of this country furnishes abundant evidence of the work I have done, besides that in relation to matters purely of local concern. If we were to allow that kind of thing to obtain, I am afraid members of this House would, on larger subjects than those affecting the localities they personally represent, become merely registering machines to carry out the dictates of the Government. I do not consider that the functions of a member of Parliament are to be curtailed in that way, and I cannot subscribe to any such proposal as the hon. member has indicated. I am very sorry that the hon. member should have thought fit during this sitting to attack me on two or three occasions. Mr. Connolly's personal friendship I have always valued, and I think he may consider, on calmer reflection, that he has not been perfectly just to me to-day.

THE COLONIAL SECRETARY: Quite as just as you deserve.

HON. M. L. MOSS: Probably that is the hon. member's opinion, but I cannot allow the hon. member, as he has done, to accuse me of inattention to my duties, without standing here, at any rate, to take my own part. I do not think it is fair. The hon. member might be a little more generous. Up to the present I have enjoyed Mr. Connolly's personal friendship, and I have no desire that it should be in any way interfered with; but the hon. member must not stand up here and accuse me of inattention, and on this Bill accuse me of interfering with the work of the Government. I do not think I have done that, and if the hon. member thinks I have, he must expect that it will take place very frequently in the future; for whilst I sit in this Chamber I shall, whenever a law on the statute-book requires amendment, bring a Bill down and have it discussed, even if there is only one person, and that person myself, voting for it.

HON. C. SOMMERS (Metropolitan): Seeing that Clauses 2 and 4 have been practically withdrawn——

THE PRESIDENT: They have not been withdrawn.

HON. C. SOMMERS: Mr. Moss has given notice that he proposes to ask leave to withdraw Clauses 2 and 4, and that being so, is it worth while going on with the Bill at all?

THE COLONIAL SECRETARY: An amending Bill of one clause.

HON. C. SOMMERS: Had Clause 2 gone through, it would have created a good deal of hardship in the country. Four or five years ago a measure was discused in the old House, and it was contended that most homely remedies were provided for the great bulk of the people. I do not want a select committee on one clause, and I think that perhaps the Bill had better be withdrawn.

Question put and passed.

Bill read a second time.

BILL—BILLS OF SALE ACT AMENDMENT.

SECOND READING.

Debate resumed from the 15th August.

HON. C. SOMMERS (Metropolitan): I rise to support the Bill. In Victoria, where I spent a good deal of my life, this law has been in operation since 1876, and has given general satisfaction, as I will endeavour to prove a little later on. I listened with great interest indeed to the very able speech of Mr. Moss, in which he explained the main features of this Bill. I have taken some little interest in endeavouring to look up the matter, and get advice upon it from interested parties—when I say interested parties, I mean people of very considerable trading ability here—as to the effect this Bill will have. As to liens on stock, and that sort of thing,

it would be well to exempt them altogether from this Bill. Mr. Moss spoke of the great distances in this State prohibiting the useful working of this particular Bill; but I may remind him that even in Victoria, small a State as it is, where the law has been in force since 1876, the means of communication from one end to the other were not particularly good. In my recollection the great railway lines running from Geelong to Ballarat right through the Western District were in those days not constructed. The whole of that Western District and the district from Colac, and so on to the Wimmera and away up to Mildura, were not opened up as they are now with railways; so that this argument used against its application here would, if sound, have held good in Victoria in 1876.

HON. G. RANDELL: Will you tell us how far the Act operated?

HON. C. SOMMERS: Right throughout the State of Victoria. I dare say that even in 1876 the State of Victoria had a much greater population than we have here. It is settled, I venture to say, pretty well over the country. Victoria is not like this State, a State of great areas. With regard to the distance, it would be interesting to note that, taking the country north of Geraldton, the total number of bills of sale registered in 1905 was only 16. That is apart from those bills of sale dealing with stock or transactions in stock. Of these 16 bills of sale, several included transactions for the sale of pearling luggers; so that north of Geraldton the question of distance, which was emphasised so greatly by Mr. Moss, practically falls to the ground. I have notes of a previous speech delivered by Mr. Moss on this subject, in which he is reported as follows:—

> The existing Bills of Sale Act was most carefully and admirably drawn, based on the English legislation, and framed in many respects to meet the requirements of this State. It is one of the best works of Mr. Walter James that is now on the statute-book.

The hon. member thus emphasised the fact that the manner in which that Bill was drawn was a monument to the ability of Mr. Walter James; but he forgot to tell the House that in this Bill, as it passed the Legislative Assembly, there was a clause providing for the giving of notice if an intention to register.

MEMBER: What year was that?

HON. C. SOMMERS: I do not know the particular year. But when that Bill came to this House from the Legislative Assembly this clause was thrown out only by the votes of two members who are not now in the House—and I may add that those two members were never responsible for any important legislation passing this House.

HON. W. KINGSMILL: How do you know it was rejected by their votes?

HON. C. SOMMERS: If the hon. member will look up the division-list, he will see that it was only a small division and that the majority recorded was two. Mr. Moss went on to say that this clause providing for the giving of notice was not in force in any other State with the exception of Victoria. But it is also the law in Tasmania—not a very large State, it is true; and the Trade Protection Society of Tasmania have been written to by the Perth Chamber of Commerce on the subject. The Perth Chamber, which represents practically the entire trading community of Perth, is desirous that this Bill should pass; and I understand there is unanimity on that point on the part of the whole of the Chambers of Commerce in the State. The Perth Chamber telegraphed to the Trade Protection Society of Tasmania, and the reply received was as follows:—

> Although means of evasion have in some cases been successfully found, the provision on the whole works excellently, and is of great protection to traders.

The Hobart Chamber of Commerce also states:—

> The clause you quote is in our Bills of Sale Act, and it is considered necessary that such clause should be there, and the working of it is in every way satisfactory.

I think these replies are satisfactory evidence of the desirability of having such a provision, when we receive such a statement from a State where the provision has been in existence for some time and is working satisfactorily. I may also point out that although this clause is not the law in some other Eastern States, it was passed by both Houses of Parlia-

ment in New South Wales, but unfortunately was passed at different periods, and it did not become law owing to a Ministerial crisis. A similar occurrence took place in South Australia. In Queensland, which is a State almost on all-fours with this State, though the provision is not law there, the Chamber of Commerce of Brisbane is advocating and endeavouring to obtain similar legislation as our Chambers of Commerce are advocating, and in Queensland they hope to achieve success in this direction in the near future. Another illustration used by Mr. Moss was what might happen in the case of a spirit merchant desiring to start a man in a public-house under a bill of sale or a mortgage. One whose opinion is worth having, Mr. Hardwick, manager of the Swan Brewery, was interviewed by the Perth Chamber of Commerce on the subject—he is more interested, I suppose, than any other person in this State in this particular class of legislation—and he, with his secretary, who has had a large experience in Victoria, informed the Chamber that his company was strongly in favour of the amendment, and felt certain it would be of great benefit to everybody concerned. Mr. Moss went on to quote the case of a man with a bill falling due in a few days, which he finds it impossible to meet, and it being absolutely necessary to save his credit he must raise money on the only security by him at the time, his stock-in-trade or the furniture in his house. The proper course for that man would be to go to his banker, if he wished to raise money quickly; and if he had stock-in-trade or furniture, it is reasonable to suppose that he was worthy of some credit, and if worthy of being given credit at all, the bank would give it in such a case. If he was not in such a state as to be worthy of credit, then the best thing for him to do in the circumstances would be to call his creditors together and place his position before them. If he were an honest trader, they would give him the time he asked for.

MEMBER: That would be better than lingering on.

HON. C. SOMMERS: It would be better for himself and better for his creditors that some compromise should be come to. It does not follow that, because a man is required to give notice of his intention to register a bill of sale, his creditors necessarily will object. He may have only a half-a-dozen creditors, one of whom may object. The man giving the notice could say to this creditor, "I am raising £100; I owe you only a few pounds, and out of this £100 I am going to give you some; but if you block me, I shall go under." And in nine cases out of ten the objection lodged would be withdrawn, and the bill of sale allowed to go through. Mr. Moss made another rather astounding statement, that such legislation must be a great encumbrance to business men in Victoria; and he went on to say that if he were a business man in that State he would protest strongly against such a law as this. I propose to give the House some extracts from letters received from Victoria on this point. The Victorian Trade Protection Society, writing to the Perth Chamber of Commerce, says:—

> We have pleasure in informing you that an Act making it compulsory for persons who intend to give a bill of sale over their property to give 14 days' notice of their intention has been in existence in this State since 1876, and has given every satisfaction, more especially relating to hotel business, where changes of license are so frequent. The advantages in the interests of traders are so obvious that we can with the utmost confidence recommend its adoption in your State.

The Victorian Trade Protection Society is a very influential body throughout that State, and an opinion so emphatic as this on the subject should weigh with us and be of assistance to us in arriving at a decision on the question. We will take the opinion of the Melbourne Chamber of Commerce, which writes:—

> The clause has been in operation for many years, and has had a very beneficial effect on trade in this State.

Mr. S. Maugher, M.P. for South Melbourne and a business man of 20 years standing in Melbourne, writes as follows:—

> General business opinion in Melbourne is notice of intention works well.

Mr. R. B. Lemmon, one of the best-known business men in Melbourne, says:—

> There were 245 caveats lodged between the 14th December, 1905, and the 12th June, 1906.

That is, there were 245 caveats lodged in six months—

Of these, 127 were withdrawn, indicating that satisfactory arrangements had been made in regard to the payment of the accounts represented by the caveat.

This proves what I said just now, that when there are objections, and caveats are lodged, the man wishing to register the bill of sale has only to go to those people making objection and explain the position to them in order to obtain the withdrawal of the objection. The fact that 127 caveats out of a total of 245 lodged in Victoria in six months were withdrawn indicates that satisfactory arrangements can be made in the manner I suggest. Mr. Lemmon proceeds:—

The bills of sale against which the remaining caveats were lodged were never filed.

This proves that the attempt to get in behind other creditors had not succeeded:—

During the same period 933 notices of intention were lodged, and 827 bills of sale filed.

That was also in six months.

From these figures you will see that the lodging of caveats is taken full advantage of here, and is found to be an easy means of recovering moneys or preventing the granting of securities by debtors, unless arrangements are made for the payment of their creditors. The privilege of lodging caveats is greatly appreciated by the business community here, and the tendency of legislation has been to extend the right, inasmuch as caveats can also be lodged against the assignment of book debts, the registration of mortgages by companies, and the registration of a company by a firm, until provision has been made for the payment of the debts. As you are aware, it has been possible to lodge caveats against bills of sale here since 1876. Other extensions of the privilege were inaugurated by the Book Debts Act 1896 and the Companies Act 1896, and these extensions may be taken as satisfactory proof of the advantage which legislation of this description affords.

Messrs. Felton, Grimwade, & Co., Melbourne, wired the chamber as follows:—

Bills of Sale Act in force here for many years found to work admirably. Notice of intention injures none and benefits very many.

I have, so far, been mainly dealing with opinions from people in the State of Victoria. The report of the Brisbane Chamber of Commerce for the year 1905 also deals with this subject; and the desire of that chamber is that the State of Queensland should introduce a provision of this character, and, according to the report, there is every prospect of the early introduction of such legislation. But I think the case made out in Victoria in favour of this provision is the strongest of any. This law has been in force there since 1876; and the fact that it has worked satisfactorily there and also in Tasmania should be sufficient proof of the desirability of its introduction in this State. No honest debtor would shirk giving notice of his intention to register a bill of sale. It is only the dishonest man who wishes to give a secret bill of sale to a money-lender with the idea of defeating his creditors, that will be inconvenienced by this legislation. A case happened in Perth only a few months ago, which may be worth mentioning—fortunately the perpetrator of that fraud is now in gaol—I refer to the Perth Manufacturing Company, which took premises in Perth and also on the goldfields, advertising very extensively; yet it was proved afterwards that the principal of this concern had started without capital, and got credit all round. He got credit for machinery, for stock and for everything. It is marvellous what credit he did get.

HON. M. L. MOSS: That has nothing to do with bills of sale.

HON. C. SOMMERS: It has, for I happen to know exactly what that man did. He went to a certain Jewish money-lender here and obtained advances, and because the law did not compel him to give notice of his intention to register a bill of sale, he was able for a long time to operate. But directly a bill of sale was registered his creditors investigated matters, with the result that they discovered that goods which they had supplied to him on credit during the previous twelve months had been assigned under the bill of sale. They made an attempt, which failed, to upset the bill of sale, and the money-lender seized the goods and sold them and thus paid himself. That is only one case, but it is one which might easily be repeated under our present law, because a man is reasonably supposed to own what he has in his shop as stock-in-trade, or in his house in the way of fur-

niture, and on the strength of that supposition a man is often given credit by the small trader. But if the trader finds from the *Trade Circular* that the man has raised money on the security of goods which that trader has supplied on credit, naturally the trader will object and will come down on him and want to know why the debtor does not pay. I cannot see how ligitimate traders can object to this measure. It is only playing into the hands of dishonest people who wish to get out of their just debts. We exempt the pastoral industry from inclusion in this Bill, and we get over all the objectionable clauses in it. The State has been gradually and surely run over by railways, and I have shown what has happened during the last year in the country north of Geraldton; that only 16 bills of sale, outside transactions in stock, have been registered there during 1905. I do not suppose the Bill will pass its second reading to-night. Perhaps in a thin House that is not desirable, because this is a piece of legislation which affects the traders of the State, and we should be cautious what we do.

HON. J. A. THOMSON: How will the general public know the persons applying for a bill of sale?

HON. C. SOMMERS: The general public subscribe, as a rule, to the *Trade Circular*.

HON. J. A. THOMSON: If they do not subscribe?

HON. C. SOMMERS: If they do not take the usual precautions they must abide by the result. The bills of sale are published in the *Trade Circular*, which can be obtained at a cheap rate, and business people as a rule take care to subscribe to it. This paper contains notices of what is going on; and if people are interested they should take the necessary steps to protect themselves. This is a matter which affects the trading public to a considerable extent; and it is taken in hand principally by the members of the chambers of commerce throughout the State, who are anxious for it. I have shown how this measure has worked in other States, and the chambers of commerce now ask for it here. Anyone who is desirous of raising money on moveable stock must give the necessary notice, to protect the legitimate trader. I commend the Bill to the earnest consideration of the House.

HON. S. J. HAYNES (South-East): Since the last meeting I have carefully perused the Bill, and also the principal Bills of Sale Act. I have just listened to the speech made by Mr. Sommers in respect of this measure, and I wish to say that there is too much reckless credit given in the State and throughout Australia. The instance given by Mr. Sommers in reference to the Perth Manufacturing Company was one showing that storekeepers give reckless credit. I wish to say that storekeepers and tradesmen should make due inquiries as to the character of persons with whom they deal. They can ascertain if a bill of sale is on the register, and they can make a man produce his banking account if necessary. In dealing with a man you can ask him to show you his pass-book. If a stranger comes here and victimises tradesmen, then I say that there is a wrong system of credit here. It was a curse to Victoria and will be a curse to this State. The remedy rests with the traders and the storekeepers themselves. Mr. Sommers has also given instances from Victoria to the effect that this Bills of Sale Bill has worked satisfactorily in that State. It may be working at present satisfactorily in Victoria, and the reason is this. that Victoria at present is a place of small distances, by reason of the numerous railways running throughout that State. In the year 1876, I was in Victoria, and was then a general merchant in business in that State, when the Act came into force, and I say it worked the greatest injustice at that time. That Act would never have been brought forward had there been on the Victorian statute-book an Act similar to that which we have in force in this State; I mean 63 Victoria, 95, which we are practically asking should be struck off the statute-book. In 1876 I was in business in Victoria, and I say that the law worked the greatest injustice. I was there when the law was introduced, and I worked under it for several years. It retarded business, and was detrimental

to the struggling man who wanted accommodation promptly. The registration was very simple; and although at that time there was no railway between Geelong and the Western District, the communication was pretty steep, but I have been backwards and forwards in 14 days by Cobb's coach. What I want to point out is this. I am positive, as far as I can be positive at this distance of time, that if a Bill of such a successful nature as the one we have on our statute-book in this State had been on the statute-book in Victoria then, the present Act now in force in Victoria would not have been known. Here we have a Bills of Sale Act that is workable, and very reasonable. It has been on the statute-book for five years, and during those five years we have had but two small amendments to it. It seems to me that directly we in this State hear of another State having a new statute passed, we must have it here. Because Victoria has a statute which provides for registration, it must be passed here. Every fad which is to be found on the statute-book in any other State is brought forward in this State. What I am desirous of impressing on members is that when we have a statute on our book that is reasonable and has acted satisfactorily, why experimentalise with a new measure? With all due respect to the chambers of commerce, there seems to be this idea of new Acts being brought into existence running in their minds. They are always looking out for something new. Mr. Moss, when speaking, I think said that the Fremantle Chamber of Commerce, after having the Bill explained to them, came to the conclusion that it would be correct to oppose it. I have given my experiences of the Bills of Sale Act, not from hearsay but from practical experience as a merchant in Victoria; and I say that had Section 32 been in existence in Victoria there would have been no necessity for registration in that State. Mr. Sommers also in advocating the measure has pointed out that the Bill will be all right if we exempt the North-West district; but why exempt the North-West. All stock come under bills of sale, and if a bill of sale is not good for the North it is not good for the South. Any person requiring an advance under a bill of sale as a rule wants it speedily.

THE COLONIAL SECRETARY: Seven days is speedy enough.

HON. S. J. HAYNES: I do not think it is speedy; but it does not mean seven days; it means that a man must give notice for at least seven days. If a man has one creditor, he must give at least seven days' notice. A man may have a creditor who has a grudge against him, and that creditor can lodge a caveat. Our present Bills of Sale Act has, from my experience, and I have had experience of the whole State, particularly in the Southern Districts since 1900, worked eminently satisfactorily. I have had considerable experience in preparing and carrying out bills of sale. But under the present Bills of Sale Act a bill of sale cannot be given for an antecedent debt; and the amount of indebtedness for which a man can be made bankrupt on petition is small. Section 32 of the existing Act might be enlarged with advantage, I must admit; and I point out in passing, as a matter for the consideration of the Government, whether it would not have been better to provide for the enlargement of that section, rather than introduce this Bill. The section provides that—

> Every bill of sale hereafter given absolutely or by way of security shall be fraudulent and void as against all sheriffs, bailiffs, and other persons seizing the chattels or any part thereof comprised therein, in the execution of any process of any court under any warrant of execution issued within three months from the registration of the said bill of sale.

If a debtor gives a bill of sale, being at the time indebted to other people, there is a simple course provided for his creditors. Small debts courts are held in most parts of this State at least once a month, and process may be taken there or in the Supreme Court, and a judgment may be obtained which is effective as against the bill of sale at any time up to three months after registration. This may be done within a month, or at the outside two months in the case of the Far North. Under such judgment the creditor can seize; and if the debtor has fraudulently raised money and done away with the proceeds, there is provision made by

which he may be prosecuted for a breach of the bankruptcy laws. Unfortunately, in this State hitherto there has been too much consideration shown to the dishonest man. If one or two examples were made for breaches of the bankruptcy laws, the necessity for a provision such as this would be removed. Then again, with respect to persons owing money and desiring to give a bill of sale for the purpose of raising that money, but who know nothing about this class of document, the grantor may present a document and say "Here is a bill of sale," to which the grantee would reply, "No; this other is a proper bill of sale," and on this latter document the grantee could sue and obtain judgment. If a bill of sale is given for an antecedent debt, it may be upset; and ample time is given for obtaining judgment in order to upset any such bill of sale; but no bill of sale given for a contemporaneous advance made at the time the bill of sale is given can be upset by similar process. That is quite right. In the one case the debtor gives the bill of sale to cover an antecedent debt, thereby committing a fraud, and where fraud is proved it should be punished. But, as was pointed out by Mr. Moss the other evening, there is nothing to prevent a fraudulently-inclined man at the present time from disposing of his goods absolutely, without having recourse to a bill of sale; for he can sell them, or he can even give them away, and there is no mode of preventing him. In such circumstances, if he gives a bill of sale for the purpose of securing an advance, he runs a risk of having to account for the money so obtained; and he also runs the risk, if there is any equity in this transaction, of having the security given under the bill of sale seized, and sold over his head. [MEMBER: But the seller has to account for the money.] Certainly he has to account for the money, and that fact shows there is some equity in it. But under the law to-day, it is possible for a debtor to sell his goods and put the money in his pocket. Therefore I would suggest for the consideration of the Government, the desirability of some such amendment of the Bills of Sale Act as would give to the party going in under the authority of an order obtained within the three months the right to seize the chattels given as security under a bill of sale for a contemporaneous advance, to realize on them, and after satisfying the amount due to the grantee of the bill of sale, to then satisfy his own claim. The weakness of the present law is that the grantor of a bill of sale may give a security over his chattels or goods comprised within the bill of sale, subject to repayment in two or three years. That provision may be made for his convenience, or for the convenience of the grantee. If in such circumstances power were given, notwithstanding the covenant contained in the bill of sale for repayment within a stipulated time, to an execution creditor on a judgment obtained within the three months, to seize also the articles comprised in the security for a bill of sale given for a contemporaneous advance, and to pay that off in the way I have described, no injustice would be done. A man, say, obtains a judgment in circumstances such as I have described, and if there is any equity in the chattels, he should be able to sell just in the same way as the man who goes in under an execution for rent, wherein sufficient of the goods in the house may be sold to pay the arrears of rent and satisfy the claim. In the same way a man should be entitled to sell the goods and chattels comprised in a bill of sale given for a contemporaneous advance, satisfy that bill of sale, and recover the balance in settlement of his own claim. If the Bills of Sale Act were amended to that extent, we would have a statute which would be a boon to merchants and traders, and would be in the interests of the general public. Although a strong case has been made out in support of this clause as regards its operation in Victoria, and while those gentlemen referred to by Mr. Sommers are gentlemen for whom we have the highest respect, still they have given their opinion only on the working of the clause at the present time. They have not told us how the provision operated when the Bill first came into force. I am satisfied that if those gentlemen lived in Western Australia and were aware of the immense distances with which we have to deal, and of the exigencies of our

position in other respects, they would vote against this measure; because, being square-headed men, they would not, in the face of our position in this State, support the proposal contained in this clause. I have had practical experience as a merchant in Victoria under their Bills of Sale Act, and I maintain that the provisions of that statute are not on equality with those of the present Bill, having regard to the different conditions obtaining in the respective States. The trouble in Victoria which gave rise to the necessity for the measure was that in the Western District—a very rich agricultural and pastoral district—the farmers after a bad season would give bills of sale for antecedent debts, and the bankruptcy procedure did not provide against that. In our present Bills of Sale Act, however, an antecedent debt is recoverable at any time within three months from the registration of a bill of sale given to cover such antecedent debt.

THE COLONIAL SECRETARY: What does our Chief Justice say about the Bills of Sale Act?

HON. S. J. HAYNES: I do not know; but, with all deference to the Chief Justice, I do not think he has had a very large experience of commercial transactions, and I am dealing with this clause from the commercial point of view. When the Chief Justice made the remark concerning the Bills of Sale Act, he could not have had such a provision as this in his mind. Another matter mentioned by Mr. Sommers was that the Victorian Trade Protection Society agreed with the proposed clause. Of course they do, because it brings grist to their mill, for it means that every small storekeeper who can probably ill-afford it has to subscribe to the *Trade Circular*, or some other person taking the publication has to break his confidential word to that society and give information to a trader who does not subscribe. [Interjection by HON. C. SOMMERS.] I know they do. I have taken the *Trade Circular* and know their procedure. They make inquiries in respect of a debtor's position, and they publish confidential information. This provision of a notice of intention to register is one that would add to the business of such a society; naturally, therefore, they advocate it. Clause 3 provides that no bill of sale shall be registered until the specified notice has been given in the Supreme Court; and it goes on to say that within certain districts that notice shall be given within seven days. Those districts are defined—Perth, Fremantle, and so on—and even in those districts I think seven days' notice far too long. Outside those defined districts, the period of notice is to be 14 days in which a creditor will be entitled to lodge a caveat, the effect of which will be to prevent the registration of a bill of sale. Seven days' notice has to be given in the metropolitan areas, such as Perth, Fremantle, Boulder, and Kalgoorlie. [HON. F. CONNOR: What about Kimberley?] As regards Kimberley, the provision will be useless there. Take Katanning; the necessary notice there is 14 days. The caveat may be lodged on the 13th day; one one day's notice has to be sent by the registrar of the Supreme Court for the caveat to go on; then he has to allow a reasonable time for the notice to reach Katanning—I am only pointing out the impracticability of this provision in relation to a security the great benefit of which lies in the celerity with which you can get it through. This Bill does not apply to the case of those having large interests, say a squatter in the North with sheep in thousands—he will apply, if he needs an advance, to the regular traders with whom he deals, to Dalgety or to his bankers; but it applies only to the impecunious man who is in want of temporary assistance to carry him through, the man who may have a pressing necessity for money to pay his rent or things like that; or who, in cases of sickness in the family, finds it necessary to raise money on his household furniture from his friends or merchants at a reasonable rate, and thus stave off the pressure. My experience has only been in Victoria and Tasmania, but I know it does not apply in South Australia. In the country districts where this would be chiefly in force in regard to persons going on the land and requiring help, there would be 14 days' notice necessary. A caveat comes in and a notice has to be given to the

person who has given notice of registration. There is delay. After the caveat is lodged notice is given, and the parties have to go before the Supreme Court to get it removed. There is time wasted over every bill of sale, and this measure will prove impracticable.

THE COLONIAL SECRETARY: You are quoting extreme cases.

HON. S. J. HAYNES: I am quoting cases that come under my notice every day. Clause 6 provides the time within which a bill of sale may be filed, and it is provided that in order to get an extension you must go before a Judge of the Supreme Court. It will be seen how cumbersome it is to get a simple security over chattels in this State; and it means that before a man clears off the cobwebs a full month will pass; and look at the expense he will be put to. If the bill of sale is anything of an extensive character for a considerable advance notice, has to be given, and there is expense on the merchant or unfortunate borrower.

THE COLONIAL SECRETARY: The notice does not affect the bill of sale.

HON. S. J. HAYNES: But all these efforts may be wasted through caveats. Clause 12 provides as to costs and compensation. Any person entering a caveat without reasonable cause and refusing to withdraw after satisfaction of his debt shall be liable to pay the grantor compensation. The creditor may have a trumped-up claim, but the man may have to pay costs again. I cannot agree with the whole of Clause 16 (Notice of intention not invalidated by misdescription). There is a provision in this clause that the matter may be decided before a magistrate or justice; but if a bill of sale is once registered a magistrate or justice cannot say whether it is valid or not. Once it is registered, that is an end of it so far as registration is concerned. In fact the question of validity of registration will never go before a magistrate or justice. I agree with Clause 14 (Certain errors in affidavits filed under Section 8 not to invalidate a bill of sale). It is an amendment that may very well go on the statute-book as an addition to the present Act. I think the provision is a good one, because in some instances securities have been capsized on technical grounds. Clause 15 (Affidavit in Section 16 may be made by attorney) enlarges the Act to the extent that persons qualified to do so may make an affidavit as to the amount of the bill of sale for registration. I also agree with Clause 16, which makes the cost of registration 5s. instead of 15s. While 15s. was an extreme rate for small bills of sale, the Government might have fixed an *ad valorem* scale; but as they have not done so, I think the reduction to 5s. is a step in the right direction. Clause 17 (Time for presentation of bills of sale for registration not affected) is a protecting clause. Nothing is to interfere with the bill of sale. I have given reasons why this Bill, if put on the statute-book, would be unworkable and impracticable, and a hardship on honest borrowers. The existing Act could be improved, but taking it all in all, it is a well-drawn Act. If this Bill is passed it will simply wreck an Act that has been of great service in the State, and will put on the statute-book a measure that will simply create hardships in all directions. There is too much inclination in this State in particular to put legislation on the statute-book without considering the nature of the existing legislation, and without giving it a fair trial. We find many persons who will support the introduction of measures have only a poor idea of what is already on the statute-book, and of the power we have in existence. We have a proper and thoroughly business-like Bills of Sale Act in existence. It might be improved by giving the right to the creditor going in on three months to sell up for a contemporaneous advance included in the bill of sale. If that were so, we would have an Act that would have a deterrent effect on frauds. Frauds do occur, but they are fortunately not very large. If we are, for the sake of removing one or two frauds, to pass a Bill to create the expense and inconvenience that this Bill will create, we are not, I submit, putting on the statute-book a Bill that will tend for the welfare of the trading community or the private individual. I am satisfied that if I am spared to be here another session, if this Bill passes, I will see an amending Bill brought

down next session. I hope members will oppose this measure, and I feel satisfied that the Chamber of Commerce, for which I have the highest respect, if they consider carefully the present Act and the facilities given by it and the protection given under it, and if they will discuss it with those who are capable of discussing it from a business point of view, will withdraw their support accorded to the Bill now before the House. They would perhaps amend Section 32 of the principal Act to the extent suggested by myself as regards a contemporaneous advance secured by a bill of sale, and also to the extent pointed out by Mr. Moss. It has been pointed out that there are doubts as to whether under a bill of sale given for a past debt, if the mortgagee or grantee realises the security, he has power to do so, or whether the remedy of execution is not gone. Improvements can be made to that extent so that the grantee of a bill of sale of that nature should not be allowed to do that. The Act could be amended to the extent that if the whole of the chattels are sold under a bill of sale for an antecedent debt, the creditors should have the right to come in, but if the mortgagee has sold and has pocketed the money the proceeds have gone. Then I say it should be good as the amount realised by the mortgagee under these circumstances within three months. If that is done we have a businesslike and effective and proper Bills of Sale Act on the statute-book, and one that will not work hardship on the mercantile community or private individual. If the Act is amended in the direction proposed in this Bill it will be a deterrent to trade and will create hardship to the private individual, and the only persons who will profit by it will be the trades protection society and lawyers.

On motion by the Hon. R. D. MCKENZIE, debate adjourned.

ADJOURNMENT.

The House adjourned at one minute past 9 o'clock, until the next Tuesday.

Legislative Assembly,

Wednesday, 22nd August, 1906.

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

PRAYERS.

ELECTION RETURN—PILBARRA.

The CLERK announced the return of writ for the election of a member for Pilbarra, showing that Mr. Rufus Henry Underwood had been duly elected.

MR. UNDERWOOD took the oath and subscribed the roll.

QUESTIONS—VALVES AND PIPES CONTRACTS.

MR. TROY asked the Minister for Works: 1, Did the firm of Carr, Ellersmith, and Hall secure a contract from the Government for the supply of 189 3-inch cast-iron valves? 2, Did the specifications of the contract provide that such valves were to be manufactured locally? 3, Is it a fact that this firm is importing the valves from London?

THE MINISTER FOR WORKS replied: 1, Yes; the firm of Carse, Ellersmith, and Auld, being a portion of a contract for the Metropolitan Waterworks Board. 2, Yes. 3. A delay in signing the contract, caused by a division of the same, prevented this firm making early arrangements for local manufacture, and prompt delivery being required to keep the reticulation gangs going, they were allowed to substitute 47 English valves on account of the above contract. They are now delivering the locally-made article in quantities as required.

MR. TROY also asked: 1, Has a contract for the supply of a number of pipes (specials) been recently let to a South Australian firm? 2. Did the Fremantle State Pipe Works submit a tender? 3, If so, was the tender higher or lower than