Legislative Council,

Wednesday, 15th August, 1906.

PAGE
Bills: Nelson A.S. Land Sale, 3R. 1029
Legal Practitioners Act Amendment, Com., progress 1029
Bills of Sale Act Amendment, 2R., debate adjourned 1033

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

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Goldfields Administration Balance-sheet and By-Laws.

BILL—THIRD READING.

NELSON AGRICULTURAL LAND SALE, *passed.*

BILL—LEGAL PRACTITIONERS ACT AMENDMENT.

IN COMMITTEE.

Resumed from the previous day.

Clause 2—Qualification of managing clerks for admission as practitioners:

HON. J. W. LANGSFORD moved an amendment—

That in line 6, after "officers," the following words be inserted:—"or shall have completed a term of ten years as a clerk in the office of a practitioner practising in Western Australia, and shall have obtained the degree of Bachelor of Laws at any university in the British dominions recognised by the Barristers' Board."

This test equalled in severity that provided in the Bill. It would still be necessary to obtain the certificate of the Barristers' Board, and pass the final examination before admission.

HON. S. J. HAYNES: The law at present met the position as suggested by the amendment. A person having obtained a degree was eligible for admission under the present Act. If a person holding a degree at a university recognised by the Barristers' Board had been in a lawyer's office for 10 years and was not admitted on application, then there was something wrong. No one would retain such a position without being admitted, if he was fit to be admitted. At present the Act was exceedingly liberal, enabling a person holding a degree to be admitted without serving articles. The principal Act provided that any LL.B. of an Australasian university could be admitted after three years' articles in this State. But if a man so qualified worked for 10 years in a local office and did not apply for admission, there must be something wrong or he had no ambition. The law being a liberal profession, the standard should be of the highest, in the public interest. The Pharmacy Act provided that none but properly-qualified chemists should sell drugs; and in every skilled profession a high standard resulted in securing a better class of practitioner.

HON. J. W. HACKETT: Did the amendment mean that the LL.B. must pass the final examination?

HON. J. W. LANGSFORD: Yes.

HON. J. A. THOMSON: Apparently the Barristers' Board could decide what should constitute a university. The amendment mentioned a university recognised by the board.

HON. S. J. HAYNES had explained the existing law, which named the universities to which the board could not object. The existing law was more liberal than the amendment.

HON. C. SOMMERS supported the amendment, the objections to which were surprising. Suppose a clerk worked for 10 years in an office, and during that period took his LL.B. degree, should he be debarred from the profession, while a managing clerk with the same office experience, but without the degree, was admitted on passing a final examination?

HON. S. J. HAYNES did not oppose the amendment, for it would not be availed of. No LL.B. worth his salt would remain in a lawyer's office for 10 years without seeking admission to the profession. The existing law was liberal enough.

THE COLONIAL SECRETARY would not oppose the amendment, but agreed with Mr. Haynes that it was not really necessary. Would a case ever arise?

HON. W. MALEY supported the amendment. The clause as it stood would open fairly wide the doors of the profession; and we might as well open them to the full width. A man who had served 10 years in a solicitor's office and

five years of that period as managing clerk probably had not a better knowledge of law than hon. members who had served for an equal number of years in Parliament. Other avenues of employment, however, might be opened for senior law clerks. If land-brokers were licensed, experienced conveyancers might thus find profitable employment. Articled clerks paid premiums, and the clause as it stood sought to admit clerks who had not paid premiums, thereby discouraging the paying of premiums, and preventing well-educated youths from seeking to enter the profession. The Bill indicated that the managing clerks proposed to be admitted would be a menace to the districts in which they had acquired their experience; for they were to be forbidden to practise within a certain radius from the offices in which they served.

HON. J. W. HACKETT: Would this amendment hold good if Captain Laurie's amendment were carried?

THE COLONIAL SECRETARY: Captain Laurie's amendment would nullify the whole Bill.

HON. R. F. SHOLL: The amendments seemed inconsistent. Captain Laurie's amendment would ignore the need for educational qualifications in youths commencing as articled clerks; and Mr. Langsford's amendment would admit to the profession a clerk who had 10 years' experience and had obtained an LL.B. degree at a recognised university. It was unlikely that such a man would work for 10 years in an office, and then seek admission to the profession. However, legal members might throw some light on the allegation that an ordinary clerk, working for 10 years in a practitioner's office, and kept in one groove all the time, had not the means of acquiring the general knowledge obtainable by an articled clerk. This showed that a clerk, even after he had served 10 years, might not be fully qualified for admission as a barrister, as he had not a thorough knowledge of all branches of the profession. The Bill appeared on one side to liberalise the law, but on the other side no effort appeared to have been made to reduce or remove the burdens under which an articled clerk must labour before being ilegible for admission to practise as a barrister. The Bill appeared to be merely a legacy from the late Government, and to have been introduced only in compliance with a promise given. The Bill was unnecessary, and he would be agreeable to its rejection.

HON. C. SOMMERS: The Bill inflicted no hardship on the articled clerk, who could study for his final examination while serving articles.

HON. M. L. MOSS supported the principle in the amendment, but suggested that it be temporarily withdrawn with a view to its reintroduction as an amendment to Subclause (*c*).

Amendment by leave withdrawn.

HON. S. J. HAYNES: The difficulty in regard to the proposal contained in Subclause (*a*) was to define a managing clerk. An articled clerk came into contact with clients, and thus gained a knowledge of business transactions, whereas many managing clerks had little or no knowledge of the ways of the world.

HON. R. LAURIE moved an amendment to Subclause (*c*)—

That the word "examination" be struck out, and "examinations" inserted in lieu.

The clause would operate unfairly on articled clerks who had to serve five years to secure privileges which, under the Bill, would be open to others after 10 years' service as an ordinary clerk, without having to pass the preliminary and intermediate examinations. The effect of the subclause would be to make it possible for a clerk who had not been articled to cram for the final examination. If it were desired to liberalise the means of entry into the profession, it would be better to do away with articles. He hoped the subclause would not pass as it stood. If it was desired to allow three or four estimable gentlemen who had been for a long time managing clerks to enter the profession, let their names be mentioned in the measure, and let them get through in that way. He hoped that, in fairness to the youth who was articled and for whom considerable sums of money had to be spent, the subclause would not be allowed to pass without amendment.

THE COLONIAL SECRETARY: To pass the amendment would be to vote against the Bill, inasmuch as it would

nullify the privileges sought to be given under the measure. This Bill was, he understood, promised by several previous Governments, but how was that likely to bind the Government in any way? The previous Government made lots of promises, but the present Government were not bound to carry out those promises, nor were they bound in any way to bring this Bill or any other Bill forward in consequence of the promises of a previous Government. They would never have brought in this Bill if they had not believed in it. The Attorney General, a member of the legal profession, would have been the last man to introduce this Bill if he thought it would lower the status of the profession. The Government had no intention of throwing the profession open to unqualified men, and this Bill did not do so. Those who would be admitted under the Bill would be as capable as were persons who crammed for examinations and passed. Notwithstanding what had been said about the great amount of money which parents must spend to article a son to a solicitor, it was well known that not 50 per cent. of the articled clerks paid any premium, and a good many received remuneration. It might be said that was not allowed under the Act, but it was allowed by permission being given by the Barristers' Board. Having passed the second reading, the House had agreed to the principle of the measure; and if the Committee accepted the amendment now proposed, members would stultify themselves. The amendment would in effect throw out the Bill, if passed. An articled clerk served five years. This amendment not only asked that persons referred to in this measure should serve five years and pass exactly the same examinations as an articled clerk, but it put additional five years on them.

HON. S. J. HAYNES: There was a distinction. A man might be a clerk in an office for five years and might raise himself. In England managing clerks were admitted, and rightly so, but they must pass their final examination and have served as managing clerk for 10 years. That was a very different matter from this, where one might have only served as a managing clerk the same time as an articled clerk had to serve, and during the other five years might have been in any position in the office.

HON. M. L. MOSS: We might dispense with the intermediate examination, because, whether in the case of an articled clerk or an applicant applying for admission under this Bill, the final examination covered all the ground of the intermediate examination, and much more. It came to a question of considering whether the persons referred to in the Bill should be called upon to pass a preliminary examination, and he did not think they should. Under Subclause (*b*) a person must have obtained from the Barristers' Board a certificate to the effect that he was a fit and proper person to be admitted as a practitioner. The object of the preliminary examination was to see that an applicant was not ignorant of any ordinary subjects that would be set to a boy who had recently passed the sixth standard in a school. If a Barristers' Board were of opinion that a candidate was ignorant of English or deficient in any branch of knowledge requisite for the profession of a barrister, they could decline to give him a certificate; hence the matter might safely be left to the decision of the Barristers' Board.

HON. R. F. SHOLL: It was not right to cast such responsibility on to the Barristers' Board, which would mean that the Act when passed would become a dead-letter. The Bill as it stood was unfair to articled clerks, who were compelled to pass certain examinations before they became eligible for admission. If managing clerks were to be exempt from the intermediate examinations, some alterations of a similar nature should be made with respect to articled clerks.

HON. S. J. HAYNES: The proposal contained in the Bill would have the effect of lowering the standard by at least 50 per cent. If the Bill passed, the standard for admission as a barrister in this State would be lower than that obtaining in England in the case of admission as a solicitor only. In this State the professions of solicitor and barrister were combined; so that members would see to what extent it was proposed to reduce the standard.

HON. R. LAURIE: Though it had been pointed out by the Colonial Secretary that the whole principle of the Bill was

contained in the clause under review, he disagreed with the Minister's contention that it followed as a consequence that the House would stultify itself by adopting the amendment. The House, in passing the second reading, had not committed itself to the Bill, but had done so merely in order that the measure might receive fuller consideration in Committee. Mr. Moss could not mention one profession which allowed candidates to be admitted on passing only the final examination. In the medical profession, would it not be dangerous to admit candidates without passing the full examination?

HON. W. MALEY: Candidates should pass the three examinations in law, and not pass only the final.

HON. C. SOMMERS quoted the evidence of Mr. Sayer to the effect that a managing clerk after serving 10 years in a solicitor's office would have a better knowledge of law than a clerk who had served five years under articles. This was the evidence of the Parliamentary Draftsman, given before a select committee.

HON. W. PATRICK: Was that on a Bill to the same effect?

HON. C. SOMMERS: Yes. It was known that a number of managing clerks had been 10 and 20 years occupying important positions in leading lawyers' offices.

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

Ayes	... ...	9
Noes	... ...	11
Majority against	...	2

AYES.	NOES.
Hon. J. D. Connolly	Hon. H. Briggs
Hon. F. Connor	Hon. J. W. Hackett
Hon. J. M. Drew	Hon. V. Hamersley
Hon. M. L. Moss	Hon. S. J. Haynes
Hon. W. Patrick	Hon. R. Laurie
Hon. C. A. Piesse	Hon. W. Maley
Hon. C. Sommers	Hon. W. Oats
Hon. J. A. Thomson	Hon. G. Randell
Hon. J. W. Langsford (Teller).	Hon. R. F. Sholl
	Hon. J. W. Wright
	Hon. W. T. Loton (Teller).

Amendment thus negatived.

HON. M. L. MOSS moved an amendment—

That at the end of Subclause (c) the words "or is a barrister and solicitor of the Supreme Court of New Zealand, and has practised there as such for upwards of ten years," be added.

The position was that any Western Australian practitioner could be admitted in New Zealand, but no New Zealand barrister who was admitted in New Zealand since the coming into operation of the Practitioners Act of 1882 could be admitted in Western Australia, because in New Zealand they had abolished the serving of articles. This Bill in a certain way abolished articles. Members had said in effect by the division that they were in favour of abolishing articles. A practitioner of New Zealand was only admitted on passing, for a solicitor, an examination quite as high as the West Australian Barristers Board subjected a candidate to; whilst in New Zealand, although the professions were amalgamated, in order to practise as a barrister it was necessary for a candidate to take the LL.D. degree in the New Zealand University; and the examinations of the New Zealand University were of a very high order indeed, because the New Zealand University was not an examining body. The papers were set by the examiners of the London University. Members would agree that in the past a great act of injustice had been done, and that now it was time to remedy the injustice. He wished to read three short judgments by Sir Alexander Onslow, Sir Edward Stone, and Mr. Justice Hensman, which contained all the arguments he proposed to submit in favour of the amendment. An application was made by Mr. R. S. Haynes on behalf of Mr. Brodrick that the Barristers' Board should give him a certificate of fitness, and Sir Alexander Onslow, Mr. Justice Stone, and Mr. Justice Hensman in giving judgment said they could not interfere, because this gentleman had not served articles in New Zealand. That was the only defect as far as the case was concerned. Three Judges, two of whom had occupied the position of Chief Justice, admitted that this gentleman possessed every qualification to practise his profession in this State; and the applicant had been a managing clerk for ten years in the offices of Messrs. Stone and Burt and Messrs. Kidson and and Gawler, and now managed Mr. Beresford's business at Fremantle. Mr. Justice Hensman had said this was a proper subject for argument in the Legislature. The amendment on the Notice Paper would give the necessary relief.

The gentleman was a barrister and solicitor of the Supreme Court of New Zealand, had practised there for ten years, and had acted as managing clerk in this State. There was no doubt as to his qualifications. for he had passed the general knowledge and the final examinations in New Zealand. He had escaped no examination, was pronounced by three well-known Judges to be eminently qualified to practise his profession here, and men of high position stated that he was thoroughly trustworthy; therefore no more was needed to commend the amendment to the favourable consideration of the Committee.

On motion by the Colonial Secretary, progress reported and leave given to sit again.

BILL—BILLS OF SALE ACT AMENDMENT.

SECOND READING.

The COLONIAL SECRETARY (Hon. J. D. Connolly), in moving the second reading, said: As the title indicates, the measure has reference to the registration of bills of sale; and the principal matter with which it deals has been for many years past the subject of complaint to previous Governments, and to this Government also. The present Government recognises that the existing Bills of Sale Act places business people under a great disadvantage. It frequently happens that when a man is in financial difficulties, he gives a bill of sale over the whole of his assets to one creditor, with the result that other creditors are left out in the cold and get nothing at all. It may be argued that the bill of sale can subsequently be upset. In some cases it can; but to upset a bill of sale is very difficult and very expensive. The Victorian law provides that 14 days' notice must be given before a bill of sale is registered. That gives time for any creditor who thinks he has been unjustly treated to lodge a caveat against the bill of sale; and the law has worked without any hardship at all to the business people of Victoria. At the same time, I am prepared to admit that a man does not give a bill of sale over his property except when he requires money quickly; so therefore we think it would inflict unnecessary hardship on the borrower to require that he should in all cases give 14 days' notice before the bill of sale can be registered. We propose that within a radius of 20 miles of a municipality seven days' notice shall be given, during which time any creditor may lodge a caveat. In outlying districts, more than 20 miles distant from a municipality, 14 days' notice must be given. After the expiration of that time, if no caveat has been lodged, the bill of sale is registered. I know that in some cases a bill of sale is invalid if given for certain purposes; for instance, it is invalid if given against a trustee in bankruptcy, if executed within six months prior to filing, except for goods supplied subsequent to the granting of the bill of sale. But it is just for this unfortunate exception that I wish to provide in this Bill. I have here quite a long list of people on whom the provisions of the present Act have pressed very harshly; that is where a bill of sale has been registered in the ordinary way in favour of one creditor who has mopped up the whole of the estate, leaving the other creditors altogether out in the cold. I can give numerous instances, compiled by the Official Receiver. However, I shall not enumerate them now, but will do so in Committee. The Bill is short, though it contains a good many clauses; but these are really machinery clauses, and the whole principle of the Bill is contained in what I have told the House. I commend it to the House as a very useful and effective measure. I may say, before sitting down, that at the request of a number of members not present to-day and of some who are present, I do not propose to take the Bill immediately into Committee. I will adjourn the Committee stage for several days, so that any members interested and business people generally may have an opportunity of studying it and offering any criticisms they think fit. I formally move that the Bill be now read a second time.

Hon. M. L. MOSS (West): I shall not take the responsibility of moving that the Bill be read this day six months; but I wish as briefly as I can to state the reasons why I decline to vote for the second reading. I predict that if this measure passes into law it will be one of the greatest obstacles to the transaction

of business in this State that Parliament has ever put on the statute-book. When I was the Minister controlling the Crown Law Department, a deputation from the Perth Chamber of Commerce waited upon me and asked that I should advise the then Government to introduce a measure based upon these lines; but I most emphatically declined to do anything of the sort, for reasons that I will presently give. I have been written to by the Fremantle Chamber of Commerce also, asking me to support this Bill; but I have replied declining to do so, because it will be a great obstacle to transacting business in this State of huge distances. I shall have something to say presently with regard to Victoria, from the statute-book of which the Bill is copied; and I know that the Fremantle Chamber of Commerce do not understand what they are asking us to support in this House. In the first place, the law dealing with these documents is largely based upon English legislation; and so far as I can learn, nowhere else except in the State of Victoria has this expedient been resorted to. Now, while the Act must be a great incumbrance to the people of Victoria, I can well understand that it would not be in that State the obstacle to business that it is bound to become in Western Australia. In Victoria there are no centres of any consequence more than from 12 to 15 hours' journey from the centre of the State. In this State there are places so far removed that a month or six weeks is no exaggeration of the time required to communicate with the Supreme Court, Perth. And I think I shall show before I sit down exactly the effect that distance will have upon such transactions in this State. First, let me enlighten the House on what is the position to-day; because the Minister tells us that he will give instances provided by the Official Receiver's office of how defective is the law which enables scoundrels to defraud their creditors. Those facts I shall not dispute. Indeed, I readily admit them, because I believe that no law and no set of regulations will prevent commercial transactions involving fraud, if people choose to stoop to it. But I will ask the House, is it not better to allow an odd case of fraud to happen, and to punish the guilty person—because I believe that the criminal law is sufficiently wide to punish such offenders—than that 500 people who may seek to raise money by means of bills of sale should be put to the inconvenience that I will presently indicate? 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. It provides that in certain circumstances bills of sale given for other than contemporaneous advances are void. If a bill of sale is given to secure other than a contemporaneous advance, it is absolutely void against persons who may obtain judgments and issue executions on those judgments up to three months of the time of the execution of the bill, and are void also in case he becomes bankrupt up to six months from the date of the registration of the document. We all know with regard to these particular documents that they are published in what is known as the *Mercantile Gazette*, which every business person in this State subscribes to. So that if a bill of sale is given to secure a false advance, it is perfectly obvious that immediately on its publication, any person may obtain a judgment at any time within three months and attach the goods given under the bill of sale for any but a contemporaneous advance.

THE COLONIAL SECRETARY: That is just the case we want to cover.

HON. M. L. MOSS: I do not think the hon. member understands me.

THE COLONIAL SECRETARY: I do understand you perfectly.

HON. W. PATRICK: You mean that there is no security for a past debt.

HON. M. L. MOSS: No security for a past debt. With regard to the six months term to which I have alluded, if a bill of sale is given for a contemporaneous advance and at any time within six months the grantor is put through the Bankruptcy Court, the bill of sale is capable of being set aside, and the grantee of it will have to forego his right to his security to the goods given for the contemporaneous advance. The principal Act defines an advance:—

An advance of money by the grantee to or at the request of the grantor, or the sale of goods or property upon credit, or the drawing,

accepting, indorsing, making, or giving of any bill of exchange, promissory note, or the execution of any guarantee, bond, or other similar undertaking by the grantee to, for, or on behalf of the grantor on the security of any bill of sale, and contemporaneously with the granting or within three days of the registration thereof.

And it includes any upaid purchase money up to a period of 21 days. So that no person in this State to-day can give a bill of sale which has any virtue at all against his creditors, or the trustee in bankruptcy, for a past debt; it must be for a contemporaneous advance. And I need pause here only to say that even in a case of a bill of sale given to secure a contemporaneous advance, the creditors can get the advantage of that.

THE COLONIAL SECRETARY: The debtor may put the money in his pocket and go away.

HON. M. L. MOSS: I reply to the hon. member at once that if such is his idea, the debtor need not give a bill of sale at all, for he can simply sell his goods and put the money in his pocket. So that argument is knocked to the ground at once. I suppose I may say, without exaggeration, that I have dealt with tens of thousands of these documents in the course of my experience; and I think I can safely say that while the Bills of Sale Act has lent itself to persons fraudulently inclined, yet in a large majority of instances bills of sale have been found to be a useful kind of instrument to have in certain circumstances. Take the case of a man with a bill coming due in three or four days, or a week; that man may have thought he would be able to meet the bill if other people paid him money then due to him; but he may find it impossible for him to meet the bill, and as it is absolutely necessary, to save his credit, that he must raise money on the only security by him at the time, his stock-in-trade or the chattels in his house, he may do that by means of a bill of sale. No obstacle is placed in the way of a man giving a mortgage over his land, without any publicity; and I may pause here to remind members that when you give a mortgage over land, you can give a mortgage to cover a past debt. Such mortgage is not made subject to the same safeguards as in the case of a mortgage given over chattels. The very essence of raising money under a bill of sale is the speed with which you can get that money. But look at what is proposed to be done in this State of enormous distances. Before you can get your bill of sale registered—and I place great emphasis on that—you have to give notice of your intention; and no money-lender or grantee under a bill of sale would dream of parting with his money before he knew whether the bill could be registered, for every business man knows that until a bill of sale is registered it has no value as a security. Take the case of a bill of sale given in Roebourne, or Kimberley, or the Murchison. A man has to go through the formality of executing the bill of sale, send it to the Supreme Court office in Perth with the intention of getting it registered, and on its production there he has to publish a notice in the *Government Gazette* of his intention to register that bill of sale. Then what happens? He is in debt; he owes say £50 or £100, probably on a bill at three or four months. A creditor may say, "You owe me money, therefore you cannot give a bill of sale." The debtor may reply, "But I have plenty of assets in my stock-in-trade and book-debts; and I have given that bill of sale to raise money and save my credit." The creditor may say, "But you cannot do it till you pay me." Now I will show members what happens in the case of a man who gives a false bill of sale. Clause 6 of this measure provides that—

No bill of sale specified in any such notice shall be registered before the expiration of seven days, or fourteen days (as the case may be) from the day of lodging such notice, or after 30 days from such day, unless a fresh notice is given or the time is extended by order of a Judge of the Supreme Court.

I am going to show how this will operate. "A" gives a bill of sale, which is duly executed and presented for registration. "B" comes along and says, "You owe me money;" and he lodges a caveat in the Supreme Court to prevent the bill of sale being registered. Clause 10 of the measure before us provides the method whereby that caveat may be set aside, namely by the debtor going before a Judge in Chambers, which involves this, that the man who has given the bill of sale may swear that he owes no money.

That affidavit goes to Roebourne or the Murchison to be sworn, after which it has to come back to Perth. "B," who lodged the caveat, has then to put in an answering caveat contradicting the affidavit made by "A." Then the solicitors on both sides may say, "We want both deponents here to examine them." Now, to come back to Clause 6 of this measure, the bill of sale cannot be registered unless all these things are doing within 30 days; after the expiration of that period fresh notice has to be given. Is it possible to do that in this State with its great area? What is the use of burdening the statute-book with legislation of this kind, to put obstacles in the way of business transactions which are resorted to in every country? Why put in a provision which, it is apparent on the face of it, will set up obstacles to business transactions, and which is capable of having such an effect on merchants in the ordinary course of business? As I said just now, such a provision may act in Victoria, a compact State with a million and a quarter of people, who are well served by railway communication, and none of them perhaps more than 15 or 20 hours by rail from the centre, Melbourne, where there is every facility for the man who lodges a caveat and for the other man to have it discharged.

THE COLONIAL SECRETARY: There is the same trouble of going before a Judge.

HON. M. L. MOSS: The hon. member does not appreciate the difference. Take the case of a man in Gippsland or the Western District of Victoria: he can be in Melbourne in 24 hours; and the mortgagee being located there, the whole thing may be settled well inside of 30 days. If I were a business man in Victoria, I would protest strongly against any encumbrance of this kind. I am not now arguing from the standpoint of Victoria, but am looking at the circumstances of this State, and pointing out the disadvantages at which this measure will place the people of Kimberley, of Roebourne, of Eucla, and of the Northern District. The thing is absolutely impracticable, and is going to put obstacles in the way of the transaction of business of a character that must be transacted speedily, without delay at all. I will take another illustration, and show the dog-in-the-manger nature of this legislation. "A" is largely indebted; he has not a feather to fly with. A spirit merchant, say, wishes to put him into a public-house and start him under a mortgage or bill of sale. The man himself may be honourable, and if he can be assisted into that business under a bill of sale to the spirit merchant, he may in time be able to pay his creditors something.

THE COLONIAL SECRETARY: Or he may not.

HON. M. L. MOSS: Or he may not. But before he gets into the hotel he is absolutely unable to pay anybody; and yet some dog-in-the-manger creditor, when the bill of sale is presented for registration, may say "You owe me £50," or it may be £100; "I know I cannot get anything from you; but you are not going to give that bill of sale until you satisfy me."

THE COLONIAL SECRETARY: Would any creditor be likely to do that?

HON. M. L. MOSS: I do not know what any creditor is likely to do. I only know what this legislation will enable him to do. Let me tell the hon. member this, and I have had frequent experience of it, that there are many instances in which nine-tenths of the creditors are agreeable to a compromise or scheme of arrangement, but they cannot bind the other creditors unless they put the debtor through the court. That is exactly what is going to happen here. An obstinate creditor will say, "I know you are unable to pay, but you are not going into that business under any conditions unless you pay me first." The debtor may reply, "But my other creditors are willing and anxious that I should get an opportunity of seeing what I can do in that business." To that the creditor may say, "Well, I am not going to allow you to do it, at any rate." I have not had actual experience of such a case as this; but I have had vast experience in connection with arranging the affairs of persons in bankruptcy and of insolvent persons. There is no shutting one's eyes to the fact that this measure will prevent resort being had to bills of sale; and if this measure does pass, the transactions in bills of sale will become a dead-letter.

THE COLONIAL SECRETARY: How is it they have not become a dead-letter in Victoria?

Hon. M. L. MOSS: Because the circumstances are so different. If I thought that I could for a moment conscientiously agree to this measure passing into law—I have had a request made to me by the Perth Chamber of Commerce, and many friends in Fremantle have asked me to support this measure—I would readily do so. But after I have talked to those persons individually, pointing out to them what I am now explaining to the House, I made every one of them waver, and they have come to the conclusion that this is a wrong thing to do. I do not want to mention names in this House, but gentlemen connected with large institutions in this State are opposed to the passing into law of this measure, absolutely opposed to it, and they are largely interested in business in Western Australia. They would not be opposed to it if the measure were desirable; but when they have had these things pointed out to them, they recognise that the measure can be nothing but a great encumbrance to business transactions. Our present Bills of Sale Act provides ample safeguards for ordinary transactions. I would, however, like to see one amendment in the existing Act, because there has been a doubt expressed as to the application of Sections 30 and 31, which make a bill of sale void in the case of a past debt if a creditor obtains a judgment within three months or if the grantor becomes bankrupt within six months. A doubt has been expressed in the case of a grantor who disposes of the goods before becoming bankrupt, as to whether the creditors can compel the grantee to disgorge. A provision to make him disgorge would be admirable and desirable legislation to add to the Bills of Sale Act. I am going to make this statement, notwithstanding any statistics which the Colonial Secretary may possess, that for one transaction wherein bills of sale are used as instruments of fraud, 100 transactions go through in this State with the law as stringent as it is, which are straightforward and honourable. I am much inclined to think that this legislation has been designed to catch one rogue in 500, regardless of the fact that it will harass the 499 honourable people who resort to this means of doing legitimate business. In the city of Perth the provisions of this measure might work as well as they do in the State of Victoria; but those members of this House who represent constituencies removed far from the centre of business may well pause to consider the arguments I have adduced against this measure.

Member: Could not we divide the State into districts?

Hon. M. L. MOSS: This thing is as bad as it can be. I am not prepared to advocate the measure at all; but I am not going to take the responsibility of moving that the Bill be read this day six months. I shall vote against the measure, and I have given some reasons. I could go on giving reasons for opposing it, but I do not wish to detain the House longer. I think the Bill has nothing to recommend it.

On motion by Hon. C. Sommers, debate adjourned.

ADJOURNMENT.

On motion by the Colonial Secretary, resolved that the House at its rising do adjourn until the next Tuesday.

The House adjourned accordingly at 6·32 o'clock.

Legislative Assembly,

Wednesday, 15th August, 1906.

	Page
Questions: Bacon Curing, Concessions to Mr. Hutton	1038
Mining Accident, Ivanhoe	1038
Police Offences Inquiry, Change of Members (2)	1038
Motions: Empress of Coolgardie G.M. Lease Inquiry, the Recommendations	1039
Standing Orders Amendment, as to urgency adjournments	1053
Immigration, Artisans and Labourers	1056
Boiler Explosion, Sons of Gwalia Mine, to Inquire	1080
Insane Patients, Maintenance by Relatives in other States	1087
Return: Land Regulations, Leases	1080

The SPEAKER took the Chair at 4.30 o'clock p.m.

Prayers.