Ballot taken, and a committee appointed comprising Mr. H. Daglish, Mr. J. J. Higham, Mr. W. D. Johnson, Mr. F. Wallace, also Mr. S. C. Pigott as mover; with power to call for persons and papers, and to sit on days on which the House stands adjourned; to report on the 29th September.

BREAD BILL.

IN COMMITTEE.

MR. ILLINGWORTH in the Chair; the PREMIER in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Interpretation:

MR. HIGHAM moved that the words "under two pounds in weight" in line 7 be struck out. Scone, Coburg, and pipe loaves were made nominally two pounds in weight. There was no necessity for the words.

THE PREMIER: The hon. member should have given notice of amendment. The Minister in charge of the Bill should not be called upon to deal with such a point without notice. The measure had been discussed carefully last session, and had only been slightly altered. The member for the Williams, at whose instance the Committee stage had been postponed, had now gone through the Bill and was quite satisfied with it.

Amendment negatived, and the clause passed.

Clauses 4 to 24—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

ADJOURNMENT.

The House adjourned at 9·32 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 22nd September, 1903.

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

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Goldfields Water Supply Act, Addition to By-law 7. Alterations to Classification and Rate Book. First Progress Report of Royal Commission on Forestry.

ADMINISTRATION (PROBATE) BILL.

IN COMMITTEE.

Clauses 1 to 13—agreed to.

Clause 14—Interest of husbands and wives in estates of the other of them:

HON. F. M. STONE asked that the clause might be postponed in order that members could see the amendment of which he had given notice.

On motion by the COLONIAL SECRETARY, clause postponed.

Clauses 15 to 49—agreed to.

Clause 50—Power of executor or administrator as to debts:

On motion by Hon. F. M. STONE, clause postponed.

Clause 51—agreed to.

Clause 52—Court may appoint district agents:

On motion by Hon. F. M. STONE, clause postponed.

Clause 53—Where estate below £500, the Master or district agent may act:

On motion by Hon. F. M. STONE, clause postponed.

Clauses 54 to 62—agreed to.

Clause 63—Fees of curator:

HON. W. T. LOTON: It appeared to him that this clause was somewhat improvident; it meant a payment of six per cent. on the whole of the estate being realised. At the present time at all events the full charge by a company

which had to wind up an estate would be two and a-half per cent.

HON. A. G. JENKINS: Five per cent. for the first £1,000.

HON. W. T. LOTON moved that the word "five," in line 3, be struck out, and "two" inserted in lieu. That would make the full charge one per cent. in the first instance, and two per cent. in the next. He considered the percentage mentioned in the clause was too high by quite a half. He did not see that the Government in cases of this kind should want to make money out of the estates. It seemed to him that the majority of these estates would not be large. They might in some instances be large, but he thought that even up to £500 three per cent. was quite enough to charge in cases of this kind.

THE COLONIAL SECRETARY: It was to be hoped the hon. member would not press the amendment. Estates in respect to which this clause would have application were almost invariably small. He would also point out that very often the curator was put to a great deal of trouble and expense in winding up these small estates. Farthermore, a commission of one per cent. was received on the total value of the estate, and five per cent. only on moneys actually collected or received by the curator or his agent. One did not think the charge excessive, nor would it be found to, if he might use the expression, pay for the trouble of winding up these small estates. He hoped that the Committee would support the clause as it stood at present.

HON. E. McLARTY supported the amendment. In his opinion six per cent. was oppressive. On a small estate of £500 a cost of £30 seemed too much altogether to deduct. If people had to pay six per cent. to the curator and then probate duty in addition, they might almost as well make their wills in favour of the Government straight out, because the Government would monopolise the whole thing.

HON. F. M. STONE: If we made the amount five per cent. altogether, it would meet the case. In his opinion five per cent. would not be too much. If there were estates up North at Wyndham, Derby, or Roebourne, agents would have to be employed by the curator, and those agents would receive three per cent. out of that five per cent. for collecting and managing the assets up there. The other two per cent. would go to the Government, he thought towards the salary of the curator and the expenses that he was put to. Where the curator had to collect, administer, and divide the amount, one did not think a person would complain if he had to pay 1s. in the £. Out of the 1s., 9d. would go to the collectors in different parts of the State, and the other 3d. to the Government. He would therefore move as a farther amendment that the word "one" in line 1 be struck out.

THE CHAIRMAN: That could not be done, unless the amendment already proposed were withdrawn.

HON. F. M. STONE: The clause might be postponed so that we could deal with the suggestion as to the one per cent. The case might be met by striking out "five," in line 3, and inserting "four." He proposed this as an amendment on the amendment.

HON. W. T. LOTON said he was not prepared to accept Mr. Stone's amendment, and he intended to press the matter. Three per cent. was quite as far as we should go. Mr. Jenkins had referred to certain companies which he thought charged five per cent. He (Hon. W. T. Loton) had a card in his pocket on which were these words: "Scale of charges for acting as trustee, executor, or administrator: On capital value of estate not exceeding £5,000, 2½ per cent." That was the charge. It was a sliding scale, but a reducing scale. On estates not exceeding £20,000 the charge was two and a half per cent. on the first £5,000, and one and a half per cent. on the amount above that. The charge proposed in this clause seemed exorbitant. He did not see why these small estates should have such a large charge imposed upon them. Three per cent. ought to be sufficient, except perhaps in some extraordinary case where one had to go a terrible distance. Mr. Stone had alluded to agents having commission, but he (Hon. W. T. Loton) trusted that the clauses referring to agents would be struck out altogether. The whole thing should be done in one place.

HON. C. SOMMERS: The clause might well be left as it stood. The curator had to deal with very small estates. The sum of £500 had been mentioned, but if the list of estates dealt with were

examined, it would be found that the curator had to deal with estates ranging from £50 to £150. The amount of correspondence and trouble entailed over these small estates would hardly pay for the handling of them. In an estate valued at £100, the property might consist of a small piece of land and a cottage, which would need to be sold, and to do this the curator would have to employ an agent whom he must pay two and a half per cent. or five per cent. In the case of an estate valued at £200 it would be five per cent., and in that case there would be very little left to the Government. The Government would receive £6 from an estate of £100, and would have to pay £3 of it to realise on the property. Therefore the department should be allowed to make up its losses on small estates by a fair margin on larger estates.

HON. S. J. HAYNES: The clause was not unreasonable, but he would support the amendment to reduce the charge to four per cent. A commission of five per cent. would not pay for the trouble incurred in many estates. Mr. Loton had referred to his company only charging two and a half per cent., but that company charged two and a half per cent. on capital and five per cent. on income. The clause provided for only five per cent. altogether. Where special agents were employed for the collection of income five per cent. did not pay, although it was proposed to do the work for that commission. As a rule ninety per cent. of the estates the curator had to deal with were small estates.

HON. A. G. JENKINS: Most of the estates were very small, and the bother and trouble of collecting them as a rule did not recompense the curator. By the Act under which the company mentioned by Mr. Loton worked, the company was allowed by Clause 14 to charge five per cent. on income.

HON. W. T. LOTON: That was another matter altogether.

HON. G. RANDELL: As one who could speak with considerable experience in winding up estates, he said with sorrow that at times there were considerable losses. Five per cent. was not too much to charge on the general run of small estates, and most of those which came under the administration of the curator would be small estates. At the same time, as there was an officer employed by the Government to do the work, it was only reasonable to assume that he could discharge some little duties for the protection of intestates' estates. In many estates the expenses would not be recovered, but six per cent. was too much for them to pay. The amendment to insert four per cent. instead of five per cent., making the total collection five per cent., should be adopted.

Amendment (four per cent.) put and passed.

HON. G. RANDELL: Perhaps the Minister would be inclined to make some alteration in the three per cent. allowance and make it two and a half per cent.?

THE COLONIAL SECRETARY: That would not be done. The department would now have an incentive to employ as few agents as possible.

Clause as amended agreed to.

Clauses 64 to 87—agreed to.

Clause 88—Executor or administrator to file statement:

HON. G. RANDELL: There were exemptions under the old Act of estates under £1,500. Under this Bill the Government took care to have duty on all estates large or small. Mr. Stone had given notice of an amendment which needed an explanation.

HON. F. M. STONE: In speaking to the second reading of the Bill he had thought it advisable that the English system should be adopted; but on looking farther into the matter he found that to do so the whole of these clauses would have to be struck out and re-drafted. He did not propose to undertake that duty, but left the entire responsibility on the Government. He desired to add the words "at the time of his death" after Subclause (*a*). The clause as it stood did not read perfectly clearly. In many cases five or six or ten years might elapse from the time of the death till the time of application for administration of probate. If the duty was collected on the then value of the estate it might be considerably more than it was at the time of the death. This might work an injustice.

THE COLONIAL SECRETARY: There was no necessity to postpone the clause. He quite agreed that it would be fair that the probate duty should be paid on the value of the estate at the

time of the testator's death. With regard to the remarks of Mr. Randell he would find the Government proposed by this Bill to make a concession not made before, that where an estate was left to certain persons nearly related by blood to the testator and residing in Western Australia the duty was to be reduced by half. The amendment might be agreed to.

HON. G. RANDELL: The Government had taken care that where anything came to them no duty should be charged. They might carry that out in the case of charitable institutions.

HON. F. M. STONE moved that the words "at the time of his death" be added.

Amendment passed, and the clause as amended agreed to.

Clauses 89 to 95—agreed to.

Clause 96—Property comprised in settlement and deeds of gift liable to succession duties:

THE COLONIAL SECRETARY: When this Bill was engaging the attention of another place in Committee, it was provided in Clause 86, line 7, that certain concessions should be made to persons occupying certain relationships to the testator, and it was therefore provided by the amendment which he was about to name that these should apply only to *bona fide* residents of and who were domiciled in Western Australia. If this concession was to be made to persons who were paying duty on an estate left by will, it was, he thought, only reasonable that the same concession should be made where the succession duties were to be levied on an estate left by deed of gift; and in order to remove the unfairness that existed at the present time he moved that after "persons," in line 16, the words "*bona fide* residents of and domiciled in Western Australia and" be inserted.

Amendment passed, and the clause as amended agreed to.

Clauses 97 to 100—agreed to.

Clause 101: Trustee or other person to file statement:

On motion by the COLONIAL SECRETARY a clerical error was corrected, the word "Commissioner" inserted in lieu of "Minister."

Clause passed.

Clauses 102 to 105—agreed to.

Clause 106—Property conveyed or assigned in anticipation of passing of Act, or to evade duty, liable to duty.

HON. G. RANDELL: This clause was somewhat retrospective. Apparently there was no limitation in the clause. He would like to ask the hon. gentleman in charge of the Bill how far it was intended to go back, or how far this clause would enable him to go back.

THE COLONIAL SECRETARY did not suppose that the Government would go farther back than the period alluded to in the clauses dealing with deeds of gift. He would like one of the legal members to express an opinion on the clause. It appeared to him it would be somewhat difficult, as in other cases, to prove the intent to evade the Act. He did not think that the principle of the clause was one to which anybody could possibly object, but carrying it out would certainly appear very difficult. He thought that if the Government under this clause got any probate duties which might have escaped them, the trouble they would be put to to obtain them would fully entitle them to the profits they would derive.

HON. S. J. HAYNES: The clause might act oppressively in certain cases. He thought the insertion of the words "if any person has within one year previous to the passing of this Act made" would be reasonable.

HON. A. G. JENKINS: The marginal note did not quite convey the intent of the clause. The words of the clause were, "with intent to evade the payment of duty hereunder." The marginal note seemed to give a wider meaning than the clause. He did not think there would be any harm in passing the clause.

THE COLONIAL SECRETARY suggested that the wording of the marginal note might be altered.

HON. J. M. DREW: The clause was in his opinion a very good one. The Government must prove intent to evade duty, and that in his opinion was sufficient.

HON. S. J. HAYNES: Fixing the time at a year previous to the passing of the Act might be conducive to evading litigation.

THE COLONIAL SECRETARY: Six months was the term mentioned in regard to a deed of gift.

HON. A. G. JENKINS: Clause 95 contained the words "made by any person after commencement of this Act." The matter referred back to the commencement of this measure.

HON. F. M. STONE: There was no necessity to alter the clause. The whole thing would turn upon the intention to evade, and the intention to evade was a matter of evidence.

HON. G. RANDELL did not find fault with the principle of the clause. He had not taken sufficient notice of the word "hereunder," which seemed to limit the time. There was, he thought, sufficient safeguard.

Clause passed.

Clauses 107 to 110—agreed to.

Clause 111—Duty to be deducted from beneficial interests under will or settlement or deed of gift:

HON. F. M. STONE: There might be a difficulty with regard to deducting duty from every devise. Under the other clauses there was power to sell land for the purpose of duty, and power to charge land for the purpose of duty. The word "devise" seemed to be an error.

THE COLONIAL SECRETARY: It would be difficult to deduct money from land. Perhaps the mistake was in the word "deduct." The opinion of the Parliamentary Draftsman could be obtained.

Clause postponed.

Clauses 112 to end—agreed to.

Schedules (four)—agreed to.

New Clause—Remuneration:

Hon. A. G. JENKINS moved that the following stand as a clause:—

The Court may, by way of remuneration, allow to an executor or administrator for the time being, on passing his accounts, a commission not exceeding five pounds per cent. on the assets collected by such executor or administrator, including rents and income. No allowance shall be made to any executor or administrator who omits to pass his account pursuant to any order of the Court.

On the second reading he had already given reasons to the House why his suggestion should be adopted. A similar clause was in force in every other State throughout the Commonwealth, and had been in force in some of them for 30 years. It inflicted no hardship on any person. Under the settled Lands Act of 1892 trustees under settlement received commission without having to find surety. A person appointed as executor was not entitled to commission, but if he renounced and an administrator was appointed, the latter received commission. The clause had been passed by the House on two occasions, once without a division and on the other occasion with only five opponents in a full House. The Minister and the honorary Minister in the House supported the clause on the previous occasions.

THE COLONIAL SECRETARY: The clause should not be adopted, for reasons already pointed out by Mr. Stone. If the clause was passed it might lead to the springing up of a class of professional executors, persons who would make it their business, like undertakers, to look up people about to die and offer to make their wills for them. A comparison had been instituted, which he did not think a good one, between administrators and executors. Farthermore, it was questionable whether this class of legislation should be initiated in the Legislative Council. The clause had been inserted on two occasions with disastrous results to a Bill which the majority of the House believed was absolutely a good Bill. Hon. members should not pass the clause.

HON. S. J. HAYNES: Commission should be allowed to executors. An executor might be a rogue, and might do something far more serious than getting commission. A similar law prevailed in all the other States. The clause had been passed on three occasions by the House. On one occasion a Bill dealing purely with commission for executors had passed through the House, showing clearly that the House was in favour of the clause. On his part there was no desire to wreck the Bill, but he felt compelled to support the amendment, which created only a just and reasonable commission. Executors went to a considerable amount of trouble, and should be paid for it. Few members would realise the large amount of trouble and risk there was in attending to executors' accounts. He did not know why such a serious position was taken up elsewhere on this clause. There was only one conclusion regarding that attitude, that it was desired to create a monopoly for limited companies. If it was wrong for private individuals to receive commission, it was equally wrong for a limited company to receive it for services rendered. The commission was small, and

would only compensate a man in ninety per cent. of the cases for the trouble he was put to and the time he took. Since the second reading he had received a pamphlet from New Zealand. In that State there was an officer called a public trustee. He believed there was a similar officer in South Australia, and he would be pleased to see the Government of this State bring in a measure similar to that in vogue in New Zealand. Any person could make the public trustee executor or trustee under settlement. The public trustee received a lower commission, but the institution was growing into great popularity, and, at the present time, the income from this source was really enormous. It also presented to the public what a limited company did not present. It actually guaranteed the security of the principal and the security of the interest at the time when payable. Where widows and orphans were concerned, where they had to depend not for luxuries but absolute necessaries of livelihood on the regularity of these payments, and also for the safety of the principal, it would be a very wise thing if the State would adopt a similar Act to that now in force in New Zealand; and not only would it be a great aid to those who deserved and required protection—the widows and orphans—but it would also be a considerable profit to the State. He would like to see an institution or office of that kind established in Western Australia. But irrespective of that he was entirely in accord with the present amendment, and he would have much pleasure in supporting it, if it were forced to a division.

HON. F. M. STONE: Certain remarks had been made that under the Settled Lands Act commission could be or might be allowed to a trustee, and also that an administrator might receive commission; but under the Settled Lands Act the Court could, in the case of certain land that came under the definition of that Act, and which it might be necessary to have sold, allow commission to the trustee appointed under that Act for the purpose of that sale; so that if the land was sold the money had to be invested in a different way, and there would be a different duty thrown upon the executor. He was twitted with not having a knowledge of that Act. He might be allowed to tell members who twitted him that he had the honour of advising a certain gentleman well known in this State, and it was through his means that this Act was introduced for the purpose for which that gentleman required it, and he (Hon. F. M. Stone) had the pleasure of having made the first application under that Act; so he might perhaps be permitted to know something about what he was speaking on. With reference to the settlement of personal property, there was no provision at all under the law for allowing trustees any commission, and in his experience settlements of personal property were far more numerous than settlements of land. There were very few settlements of land in this State, but a considerable number of settlements of personal property, and under those settlements no trustee had any right to receive remuneration. With reference to administration the law stated that the only person who could be an administrator was the next of kin, or a blood relation of the deceased, or a creditor. If an executor was appointed under a will, the person who made that will had a right to allow that executor for his trouble and expense a certain amount, or he could allow him a commission, if he liked, but if the testator did not, he relied entirely on the executor discharging the duties as an act of friendship for the testator's wife or children, without charge, same as he himself would if appointed executor under that person's will. But the case of an administrator was entirely different. The executor, if he liked, could renounce the will. He need not take the duty upon him. He could say, "I see there is nothing coming to me under this, and therefore I will not accept probate of this will, and I will renounce it." That put the estate in this position, that it was necessary to hunt about for a person who would take charge; and under the law some relations had to be got. The Court was forced into appointing a relation to administer that estate. It was for that reason that the Act had provided that a commission might be allowed to an administrator for so doing. It to a certain extent rested upon him to administer the will because the executor had renounced, and in all cases, with very few exceptions, the administrator was a relation, and a very near relation of the deceased. In an experience extending over 30 years he did not know

of a single application made under the Act for commission. If commission was to be allowed to executors, it meant that we should get a professional executor, and if this measure passed we should see advertisements of persons willing to accept executorships and trusteeships—[MEMBER: We saw them now]—and ignorant people would be caught by those advertisements. There would be the professional executor, and the unscrupulous lawyer would get himself appointed under a will for the sake of the commission. What protection was there? No bond was to be given, no security required for the due administration of the estate; simply the executor's personal responsibility; whereas under the present Act the administrator had to obtain bond of two sureties for double the amount of the estate before the Court would grant him administration. It had been said that this was a law which had been in force in other States; but the only experience he had had was in one State where two ignorant women appointed a professional gentleman as their solicitor. The other day he met someone who was interested in this estate, and said, "How did you get on?" The reply was that the solicitor had the whole lot to pay his commission, and there was nothing left for the two unfortunate women who were left sole legatees. He did not know of any other solicitor who had been appointed under a will. He was pretty certain from his knowledge of the case that, had it not been for the commission, and had the solicitor had to do the work for nothing, that solicitor would never have been appointed. Administrators never applied for commission. He had in his time, perhaps hundreds of times, been administrator for people residing out of the State, and he was never paid in any single instance, and never thought of it. He was satisfied in having been paid all the costs, and the costs incurred had not averaged one per cent., leave alone five per cent., of the value of the estates placed in his hands. What necessity was there for what was now proposed? Had there been any crying out for it by the public, saying that we could not get executors appointed because they would not accept probate? A certain company had been referred to. That company was started with the very object of meeting cases where it was impossible to get an executor or a trustee to act, or where a trustee or executor desired to be relieved of the trust. That want being supplied, he did not see any necessity for the professional man. There was no difficulty in getting one's friends to act in matters of this kind. There was no difficulty in getting friends to act as trustees under a settlement. If one could not get them to act, there was the company. Why did we want to alter the law and make it compulsory that this commission should be charged? One would go to Court, and the Court would in nearly all cases order that commission should be paid. He urged the Committee not to pass what was proposed, because in his opinion he had shown there was no necessity for it.

HON. S. J. HAYNES said he had had the pleasure of practising as a clerk to a professional man in another State, and he never knew the Act operate oppressively or where there was a case similar to that stated by Mr. Stone. It was also said that the measure would bring about a professional executor of the worst type; but he (Hon. S. J. Haynes) would put an instance where it would act not satisfactorily to the testator himself. As a rule, a testator weighed very seriously indeed the question of whom to trust with his worldly estate for the protection of his wife and children. What guided a man in making his will was the choice of executors in whom he had every confidence, for he knew they would deal with his estate in a less rigid manner than a company might, and to the advantage of the estate; but inadvertently he might not allow his executors a reasonable sum for the trouble attached to the work. The executor might renounce and the estate be put to considerable trouble to obtain administrators, for there was sometimes considerable trouble in obtaining bondsmen.

HON. C. SOMMERS: The arguments against the clause could be summed up in the words "professional executors." It was not reasonable to suppose that a set of professional executors would be created. The common rule was that, when a man was about to make a will, he looked around among his personal friends and found men in whom he could put

his trust. It did not follow that persons would avail themselves of the right to the remuneration the clause proposed to give them. A large number of persons in the State came from the Eastern States, where the clause was in force, and, being ignorant of the fact that the clause did not operate in Western Australia, made wills fixing no remuneration for executors. It was ridiculous to say that the man appointed by the Court, after an executor had renounced his trust, should receive pay, whereas the man appointed by the testator could get nothing. Arguments against the proposal were particularly weak. It was as well to bring our legislation into line with that of the Eastern States, now that the States had federated. When the clause had been before the House previously, Mr. Moss, the hon. member of the Ministry, spoke very strongly in its favour.

Question (that the new clause be added) put, and a division taken with the following result:—

Ayes	...	...	14
Noes	...	...	7
Majority for		...	7

AYES.	NOES.
Hon. W. G. Brookman	Hon. T. F. O. Brimage
Hon. J. D. Connolly	Hon. W. Kingsmill
Hon. J. M. Drew	Hon. W. T. Loton
Hon. J. T. Glowrey	Hon. G. Randell
Hon. J. W. Hackett	Hon. Sir George Shenton
Hon. S. J. Haynes	Hon. F. M. Stone
Hon. A. G. Jenkins	Hon. E. M. Clarke (*Teller*).
Hon. R. Laurie	
Hon. E. McLarty	
Hon. B. C. O'Brien	
Hon. C. Sommers	
Hon. J. A. Thomson	
Hon. J. W. Wright	
Hon. Z. Lane (*Teller*).	

New clause added to the Bill.

On motion by the COLONIAL SECRETARY, progress reported and leave given to sit again.

SUPPLY BILL, £500,000.

ALL STAGES.

Received from the Legislative Assembly, and, on motions by the COLONIAL SECRETARY, the Bill passed through all stages.

CONSTITUTION ACT AMENDMENT BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

TRANS-AUSTRALIAN RAILWAY ENABLING BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

THE COLONIAL SECRETARY moved that the second reading be made an order for the next day, and said that as the matter was one of great urgency he intended to move for suspension of Standing Orders so that the Bill might pass through all its stages at the next sitting.

Order made accordingly.

At 6·22, the PRESIDENT left the Chair.
At 7·35, Chair resumed.

PEARLSHELL FISHERY ACT AMENDMENT BILL.

IN COMMITTEE.

Clauses 1 to 4—agreed to.

Clause 5—Licensing officers may grant licenses to ships:

THE COLONIAL SECRETARY moved that the words "or cancelling" be inserted in Subclause 4 after "refusing." In Subclause 2 it was provided that no Asiatic should be owner or part owner of a ship, or have any interest directly or indirectly in a ship's pearling operations. Subclause 4 provided that no licenses should be granted as a right on the part of any applicant, and the Governor might give directions to any licensing officer as to the granting or refusing of any license. It might come to the knowledge of a licensing officer that, in spite of all precautions, an Asiatic might be a part owner of a boat, and it was, therefore, proposed to give to the licensing officer the power to cancel a license.

Amendment passed, and the clause as amended agreed to.

Clauses 6 to 10—agreed to.

Clause 11—Pearl-diver's license, Fourth Schedule:

THE COLONIAL SECRETARY moved that the words after "no person" in the first line be struck out, and the following inserted in lieu:—

> [No person] having used a diving apparatus for six months or upwards shall continue to dive for pearls or pearlshell unless he is the holder of a pearl-diver's license in the form of the Fourth Schedule.

One reason for certain objections raised to the Bill was that the Bill did not pro-

pose to give to what were called try-divers the right to work without a license. This was recognised as somewhat inequitable. Therefore it was proposed to amend the clause in the direction indicated. The proposed new clause would allow men to try for six months, which was a fair thing.

Amendment passed, and the clause as amended agreed to.

Clauses 12 to 16—agreed to.

Clause 17—Power to grant exclusive licenses:

THE COLONIAL SECRETARY: It might happen, and indeed it had happened in one or two instances, that on our northern coasts a wish had been expressed to obtain land and water for the purpose of carrying on other industries than the search for pearls and pearlshell. Already the Government had had applications for the use, to some extent, of water for the purpose of obtaining turtles for the manufacture of soup. Again, it was very probable that in those waters would be found sponges and *bêche-de-mer*, which was also an article of some commercial value. It was, therefore, proposed that these exclusive licenses might be granted not only for the purpose of planting and cultivating pearlshell, but also, if necessary, for other purposes, and for cultivating or gathering other products of the sea. He moved, therefore, that after the word "pearlshell," in line 3, the words "or other products of the sea" be inserted. In doing so, perhaps, he would be in order in stating that amendments which were almost consequential amendments to this which he now proposed would have to be moved in clauses farther on. It was not proposed that it should be possible for individuals to obtain exclusive licenses for the purpose, say, of collecting *bêche-de-mer* which he could afterwards convert to the purpose of cultivating pearls or pearlshell. Provision would be made for that in clauses later on, so that any fear of fraud might at once be dismissed from the minds of members. He thought members would see that this was a move in the right direction, a move in the direction of making the best possible use of the water around our coast and the natural advantages we possessed in those waters. This was a phrase which occurred in the Queensland Act from which this measure was largely taken, and, so far as their experience went, it had led to no evil results.

Amendment passed, and the clause as amended agreed to.

Clause 18—Application:

THE COLONIAL SECRETARY: Clause 18 had been criticised to some extent, and he would like to explain the intentions of the Government with regard to these applications. In the first place members would see that every application for an exclusive license should be made to the licensing officer, and notice thereof should be given in the prescribed manner. If members thought it necessary, the prescribed manner could be set out in the Bill, but personally he did not think it necessary. The manner in which it was intended to prescribe was as follows. These applications should be advertised in the *Government Gazette*, also in a paper circulating in the district, and by notice posted at the office of the licensing officer. In the second place members would see that objections might be made within a prescribed period, and here he thought it was well to mention in the Bill itself what the prescribed period should be. He therefore moved that the words "the prescribed time," in Subclause 2, be struck out, and "three months after such publication" inserted in lieu. That gave those people who had any wish to object to these exclusive licenses a period of three months within which to lodge objections, and it was provided that such objections should be heard by the licensing officer, and the evidence taken should be forwarded to the Minister to guide him in his decision to grant or refuse the application.

Amendment passed, and the clause as amended agreed to.

Clause 19—agreed to.

Clause 20—Area; term and conditions:

HON. J. W. HACKETT: Paragraph 2 of this clause seemed to give the Minister enormous power. It seemed to provide that an exclusive license might be granted for any term not exceeding 21 years, and on such conditions as to the Minister might seem fit. Would it not be well to provide that these conditions should be general, should be uniform, and should be arranged by the Governor-in-Council? It read really as if in every case where exclusive licenses were applied

for, the special terms might be arranged with the Minister. That opened the door to abuse, and he thought this Committee would be unwilling to grant such power even to such a Minister as the hon. gentleman. Was the object of the clause to allow special conditions to attach to each individual license, or were there to be general conditions applicable to the granting of these licenses?

THE COLONIAL SECRETARY: The surmise of the hon. gentleman was correct, that being that each individual license should be dealt with on its individual merits. The hon. gentleman would no doubt see that by the addition of the words which had been inserted in Clause 17, regarding the issue of these licenses in respect to the cultivation or gathering of other products of the sea than pearls or pearlshell, they were placed very much in the position that the Minister for Mines was in. The Minister for Mines had statutory authority to differentiate between, say, gold-mining licenses, mineral leases, and coal-mining leases. It would not be reasonable, he was sure the hon. gentleman would agree with him, to charge the same rent, say, for a license for the cultivation of pearlshell, which was a very valuable commodity, as one would charge for a license which gave the exclusive right for the gathering of *bêche-de-mer*, which was not a very valuable commodity. Thus it was necessary to differentiate between the several kinds of licenses which might be applied for under this Bill. He proposed to add at the end of the clause, as Subclause 3, the words, "No license shall be transferred, sublet, or assigned, except with the permission of the Minister."

HON. J. W. HACKETT urged the Minister to accept the substitution of "Governor" for "Minister."

THE COLONIAL SECRETARY said he had no objection.

HON. J. W. HACKETT moved that the word "Minister," in line 3 of Subclause 2, be struck out, and "Governor" inserted in lieu.

Amendment passed.

THE COLONIAL SECRETARY moved that the following be added as Subclause 3:—

> No license shall be transferred, sublet, or assigned except with the permission of the Minister.

HON. J. W. HACKETT: Would the hon. gentleman insert "Governor" there too?

THE COLONIAL SECRETARY thought the word "Minister" might be left in this subclause; however, he had no objection to accept the suggestion.

Amendment as altered passed, and the clause as amended agreed to.

Clause 21—Pearlshell, etc., the property of the licensee:

THE COLONIAL SECRETARY: In pursuance of what he had already stated in Committee, he moved to add a subclause to this clause which would read as follows:—

> An exclusive license to plant, cultivate, gather, collect, or remove any other product of the sea than pearls or pearlshell shall confer on the lessee an exclusive right only in respect of the specific product therein mentioned.

This was to prevent an exclusive license granted for the production of a less valuable article than pearls or pearlshell from being used to acquire pearls or pearlshell.

HON. B. C. O'BRIEN: It would be practically a dual title.

THE COLONIAL SECRETARY would sooner establish a dual title than allow people to take up a license for *bêche-de-mer*, or for sponge, or for turtling purposes, and thereby acquire a title for the pearl and pearlshell in the water they took up. It was far preferable.

Amendment passed, and the clause as amended agreed to.

Clauses 22 to 70—agreed to.

Clause 71—Summary proceedings:

HON. A. G. JENKINS: Members were not satisfied with the clause. It seemed a most extraordinary power to put into the hands of an inspector or licensing officer to take any offender without summons, warrant, or other process, and if necessary the ship or boat to which he belonged, and the crew, and deport them 200 miles to the nearest port, when there might be no offence at all. It was a most arbitrary clause.

HON. R. LAURIE: The proper course was simply to take the offender, and not to stop the work on a ship, which would be a hardship.

THE COLONIAL SECRETARY: The power would only be used in extreme circumstances. The contention of Mr. Jenkins was fairly reasonable, but many

of these powers were conferred in several Acts, and were only to be used in extreme circumstances. There would be no objection to striking out some of the words, but he would object to the striking out of the whole of the clause. The necessity of the Bill might be met by providing that only the offender should be taken.

HON. A. G. JENKINS moved that the words "and if necessary the ship or boat to which he belongs and the crew thereof" be struck out.

Amendment passed.

HON. A. G. JENKINS moved that the words "The inspector or officer may detain the ship or boat until the alleged contravention has been adjudicated upon" be struck out.

Amendment passed.

The clause as amended agreed to.

Clauses 72 to end—agreed to.

Schedules (fifteen)—agreed to.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

ELECTORAL BILL.

SECOND READING (MOVED).

THE COLONIAL SECRETARY (Hon. W. Kingsmill): In introducing this Bill, which is a very important one, I may preface my remarks at once by saying that I do not propose to hold forth at great length on the general principles involved. It is a Bill which throughout its length deals to the greatest possible extent with details, and is eminently susceptible to consideration in Committee. I would therefore leave the greater part of my remarks—remarks which I feel sure I shall be called upon in this House to make in the Committee stage of the Bill—but at the same time I cannot help making a few observations perhaps. The first I have to make is to the effect that this is the second occasion upon which this Bill has practically been before this Chamber.

HON. J. W. HACKETT: We never got so far as this Bill.

THE COLONIAL SECRETARY: Oh, yes. The Electoral Bill was discussed last year in this Chamber. It was introduced by the Hon. M. L. Moss. I do not wonder the hon. member (Dr. Hackett) in looking over the debates last year failed to notice it, because it occupied I think only about half a page, or something like that. It was introduced in very brief terms, and if I may use a colloquialism, passed out. I understand that was to a great extent not because members objected so much to the provisions in the Bill, but because there was at that time a somewhat heated feeling, which I am delighted to think does not now exist, between the two branches of the Legislature. [MEMBERS: No.] I am very glad to hear it. Then perhaps the second reason may be accepted, the reason I have heard stated by members since I have been in this Chamber, which was that the Bill was brought down so late in the session that it was impossible to give it that consideration which it demanded, and therefore the expedient of rather dealing out to it the happy despatch was adopted. [MEMBER: That is right.] That had some weight, because I notice, and Dr. Hackett will see, that the Bill was introduced here and the second reading was moved on the 16th of last December, when the session was already drawing to a close.

HON. J. W. HACKETT: I certainly forgot it. The Minister moved it, and it was instantly negatived.

THE COLONIAL SECRETARY: Instantly negatived. As I was saying, I hope it will not meet with that fate on this occasion. I feel confident that it will not. I feel sure that, introduced as it is fairly early in the the session, members will give it all the attention so great a subject demands, that they will give it fair discussion, and I am sure if they do that, if they give it fair consideration and fair discussion, the Bill will be passed through this Chamber without being amended in any vital particular. The two principal objects of the Bill, I think, are for the purpose, in the first place, of simplifying elections to both Houses, and in the second place of purifying elections to both Houses. I do not think any member will say that these objects are anything else than of the highest good. Perhaps we may differ, from the interjections of members I am inclined to think we shall, upon the method by which these objects are to be attained, but as we shall be working towards the simplification and purification of Parliamentary elections, I am sure that, should

any difference arise, a compromise will be arrived at which will meet both parties. Again, the Bill provides with respect to the Lower House especially, and indeed with respect to the Upper House, for a readiness of transfer from one district or from one province to another. That is very often badly wanted. And also the Bill makes provision for a man being able to vote practically within a few days of the time he makes his claim to be registered as a voter or puts in his application for transfer. [Interjection by HON. J. W. HACKETT]. I am not going through the clauses.

HON. J. W. HACKETT: We would like to hear something about Clause 14.

THE COLONIAL SECRETARY: Dr. Hackett I think is very—well, I do not like to say unfair, because I know the hon. member is susceptible as to the use of any expression of that kind, but he is not altogether right in assuming that I was wishing to skip anything. I do not wish to skip at all, but the hon. member will remember that it has been my practice—undoubtedly a practice he may possibly very much improve upon—in introducing Bills in this House, in the first place to make general remarks upon the Bill and afterwards to go through the Bill taking the clauses *seriatim*. Taking these clauses *seriatim* the hon. member will see that the first part, the preliminary clauses, comprise as is usual the divisions of the Bill and the interpretation. The second part of the Bill—and this part particularly is worded in the clearest and most concise manner possible—deals with administration providing for the creation and to some extent defining the duties of the various officers whose services will be found necessary to administer the measure. And now we come to Part III., electors, and with regard to this I have very much pleasure in assuring the House that as I expect some little difference of opinion perhaps may arise upon this division I shall be very pleased, if members so wish it when we get into Committee, to postpone the consideration of this part until the other provisions of the Bill have been considered, and to meet the wishes of members with regard to discussion and the necessary delays for deliberation in the fullest possible manner. Members will notice—I have no doubt it is almost superfluous for me to draw their attention to it—that in the Bill under discussion the qualification for electors of the Upper House has been considerably reduced; that in Subclause 1 the qualifying freehold estate has been reduced from £100 to £50, and that in Subclauses 2, 3, and 4 the leasehold estate value, the clear annual value of a dwelling-house, and the value of a leasehold or license from the Crown to depasture, occupy, cultivate, or mine upon land, has been reduced in each case from £25 to £10.

HON. J. W. HACKETT: Not the Crown right.

THE COLONIAL SECRETARY: No; the Crown leasehold or license has been left as before. The other two have been reduced from £25 as they stand now in our present Act to £10, which is now proposed in this Bill. The qualifications of the Assembly electors are left practically the same, and we find that qualifications are put in for seamen and pearlers. Clauses 20 and 21 contain new principles. They contain the principles with regard to this Chamber that a vote for the Council shall be allowed in one province only to any one man. Part IV. deals with electoral rolls and the preparation thereof, and it lays down in the widest possible manner in Clause 33 how the new rolls shall be made up. Again in Clause 35 effect is given to the provision which I have already stated exists in Clause 21, as to the names of Council electors being registered on one roll only. Part V. is one of the most important parts of the Bill, and deals with additions to rolls, transfers, and to alterations of rolls. Of these clauses, Clause 39 is a very important one for this House and the other House, providing for the right of electors to transfer. Farther on we find the method upon which such transfers shall be made, and in Clause 44 we find the time up to which such transfer can take place, namely a time not later than 14 days before the issue of the writ for the election.

HON. G. RANDELL: None of that is new.

THE COLONIAL SECRETARY: The transfer part is new. They had to be a long time on the rolls—30 days. In Part VI. provision is made regarding revision courts, the subject being dealt with very

much in the same manner as in the present Act.

HON. J. M. DREW: Only the time is not fixed in this Bill.

THE COLONIAL SECRETARY: The time is not fixed in this Bill, and I do not think that would be any inconvenience. Under this Bill revision courts will be held whenever necessary, and I think it is better for the chief electoral officer, upon whose advice this course is taken, that the chief electoral officer shall be able to hold revision courts when he thinks fit, instead of having perfunctory courts at places and times when they are not wanted. It will be found better than being bound down by statutory times as we are at present. Part VII. provides for the writs for elections, and I do not think members will find much difference between this and the present Act, nor indeed in Part VIII., which deals with nomination, except that in Clause 72 there is reversion to the old state of affairs with regard to the signing of nominations by the candidate only. If members will look at form M in the second schedule, they will see it is only necessary for the candidate to sign his nomination paper, and it is not necessary to obtain the signatures of two or more electors. I do not think it is necessary to get those nominations, and sometimes in the case of a candidate who forgot to provide himself with the necessary electors at the last moment it might put him to a good deal of trouble to hunt them up.

HON. W. G. BROOKMAN: Is Clause 73 a wise clause?

THE COLONIAL SECRETARY: I am given to understand all the clauses of this Bill are wise, although there will be some difference of opinion as to the degree of wisdom in them. I think Clause 73 is absolutely necessary. If the hon. member represented, say, one of the Kimberleys, he would find it very handy indeed to telegraph his nomination to a place where, in the normal state of things, the mail steamers in the summer months only run about once a quarter. Part IX. provides for facilities for voting by post, and lays down in detail the method and restrictions upon such voting. Part X. deals with polling, and provides that the Governor may appoint a chief polling place, and in the same manner may disestablish a place as a polling place, and the returning officer appoints the subsidiary polling places in each district, which is practically the procedure that is followed at present. Clause 100 is, if I remember rightly, a new clause, and a clause which I think is a very necessary one and an economical one which will act to the benefit of the Government. It provides that all buildings under the control of the Government—which of course goes without saying—or the property of municipal corporations or road boards, and all halls which are subsidised by the Government, shall be used free of charge for election purposes. Clauses 101, 102, and so on provide for the construction and inner arrangements of polling booths, for the necessary precautions to be taken to observe the secrecy of the ballot, and for the necessary assistance to be given to persons who suffer from any defective sight in the exercise of their franchise. Clause 112 provides for the method in which a voter may be challenged, and Clauses 113 and 114 provide for the consequence of answers, and also for the fact that so far as the polling at the election itself is concerned an affirmative satisfactory answer on the part of the voter shall be conclusive, no farther proceedings having to be taken at a later stage.

HON. G. RANDELL: Clause 115 is new.

THE COLONIAL SECRETARY: I believe it is new. A female elector can be identified, taking the spirit of the Bill, if she assures the returning officer that before she was married she was so-and-so. She should satisfy the officer. In Clause 121 provision is inserted which lays down that, in elections for two or more candidates, no plumping shall take place. Paragraph 2 of that clause says that—

> If two or more candidates are to be elected, the voter shall vote for the full number of candidates to be elected, and shall make a cross in the square opposite the name of each candidate for whom he votes.

HON. G. RANDELL: That is a change for the worse.

THE COLONIAL SECRETARY: There is a considerable difference of opinion upon that point.

HON. G. RANDELL: It has always led to mistakes before.

THE COLONIAL SECRETARY: In Part XI. the scrutiny of the result of polling is provided for, and in Clause 121 will be found a definition of informal ballot papers. In Subclause 2 of this clause the fact of any person having undershot or overshot the mark in the matter of the number of candidates he is voting for renders the ballot paper informal. Clause 130 is the usual clause providing for the preservation of ballot papers after elections until it is impossible for elections to be upset by any subsequent proceedings. Part XII. deals with the return of the writ. I do not think there is anything very strikingly new in that. In Part XIII. we come to a new departure in the limitation of electoral expenses, and in this connection, while the Federal Act has been taken to a very great extent as the basis of this measure, the restrictions which are laid down in the Federal Act are somewhat relaxed. Hon. members will see, in the case of elections for the Council, that election expenses—and they will notice in the next succeeding clause a definition of election expenses—shall not be in excess of £200, and for the Assembly not in excess of £100. Clause 139 provides that no electoral expenses shall be incurred or authorised except in respect of the following matters: Printing, advertising, publishing, issuing and distributing addresses by the candidate, and notices of meetings; committee rooms; public meetings and halls therefor; scrutineers and one election agent. Clause 140 contains the definition, which I have just referred to, of electoral expenses, and also contains certain exemptions, amongst which will be found electoral rolls, stationery, postages, rent of halls belonging to any public body, and personal and reasonable living and travelling expenses of the candidate.

HON. MEMBER: That does not count.

THE COLONIAL SECRETARY: I think it will count very much.

HON. MEMBER: But it does not come within the schedule.

THE COLONIAL SECRETARY: No; it does not. In Clause 141 will be found a declaration of electoral expenses by a candidate, which has to be signed by a justice of the peace and filed with the Chief Electoral Officer, showing all electoral expenses paid, and all disputed or unpaid claims for electoral expenses. If these two lists are well and truly made out, it will be possible, I think, to arrive at a very fair conclusion as to the electoral expenses incurred by any candidate. [HON. G. RANDELL: It is a long way round.] In Part XIV. electoral offences are defined. We have already, in the Criminal Code, Chapter 14 which lays down and specifies electoral offences, also provided remedies for the same offences. That chapter of the Criminal Code, so far as it relates to electoral offences, is repealed by this present Part XIV., and I may mention that this Part XIV. is conceived in a much more liberal spirit than Chapter 14 of the Criminal Code, whose place it takes. The offences are defined about the same, but the provision for punishment for them is on a much more liberal scale, as regards the offender.

HON. J. W. HACKETT: Does an electoral offence incapacitate sitting in Parliament?

THE COLONIAL SECRETARY: Clause 150 provides that any candidate guilty of bribery or undue influence shall be disqualified from election for one year, and his election (if a successful candidate) shall be void.

HON. J. W. HACKETT: That is not an electoral offence. Clause 142 sets out bribery, undue influence, and also electoral offences.

THE COLONIAL SECRETARY: I think the hon. gentleman will see in Clause 144 and Clause 146, which define bribery and undue influence, that bribery and undue influence cover, like charity, a multitude of sins.

HON. J. W. HACKETT: However, they are distinct in Clause 142.

THE COLONIAL SECRETARY: But they are defined in Clauses 144 and 146 clearly, and I may say very extensively.

HON. J. W. HACKETT: I think you will see that electoral offences do not disqualify.

THE COLONIAL SECRETARY: I would point out that the clauses apply not only to candidates, but to electoral officers and electoral agents. Clause 145 continues Clause 144 in connection with the definition of bribery. [HON. J. W. HACKETT: That is all bribery and undue influence, but not an electoral offence.] Part XV. makes the necessary provisions

for the method of disputing elections and gives, I understand, a more direct method of dealing with disputed elections than exists at present. Clause 168 is a clause which I think all hon. members of the House, except perhaps three or four, will agree with most heartily. It provides that "the Court shall be guided by the substantial merits and the good conscience of each case, without regard to legal forms or technicalities." [Hon. A. G. JENKINS: It has been such a success in the Arbitration Court!] In Part XVI., the last part, the miscellaneous provisions are found, providing for electoral matter to be sent by post or telegraph, the necessary provision for illiterate persons making marks, and that regulations shall be made for the Act, which regulations shall be laid before the House within 30 days after the making thereof if the Parliament is then sitting, or within 30 days after the next meeting of the Parliament. I have to commend the Bill to the House and to ask members to give it that careful attention for which, I am sure, it is almost unnecessary to ask. At all events I am sure hon. members will not treat it, and they have not cause to treat it, as the Bill was treated last year. I trust they will give it, and I venture to say they will give that consideration Bills so far have met with in this House.

HON. J. W. HACKETT (South-West): I wish to move the adjournment of the debate. I do not like to address myself to this Bill unless we have the Constitution Bill before us.

Motion passed, and the debate adjourned.

NOXIOUS WEEDS BILL.

[NOT TO PROCEED.]

Referring to the Order of the Day for farther consideration of the Bill in Committee,

THE COLONIAL SECRETARY said the Government would not take any more steps with regard to the Bill. He moved that the House do now adjourn.

HON. J. W. HACKETT: The Minister should move that the order be discharged. It was to be regretted the measure had been lost. There was some good in it, but not as much as might have been imported into it by the Ministry if they had taken advice of their statutory officers on agricultural matters. There was one most important amendment, and it was for this purpose he rose to make a statement. No doubt the whole of the mischief in the last Bill was that it became a dead letter through not being put into operation. The reason the last Bill failed was that the Ministry were given powers which they did not care to exercise, and which nobody compelled them to exercise. The representatives of the agricultural interest in this House would take care that as far as possible that error did not appear in the present Bill; but the clause the hon. gentleman suggested with regard to the original railway reserves and the land reserves was open to the same objection, that they were only called upon at their own discretion to keep their ground clear from time to time. What was meant by "from time to time" was not explained. Who was to compel them to keep it cleared from time to time we were not told. He was prepared with an amendment which he feared the hon. gentleman would not accept, that the Minister for Lands and the Commissioner of Railways should be compelled to keep their reserves cleared on being called upon by the local authority; that was the municipal body, or the roads board. As he said, however, he was afraid that would not be acceptable; therefore he could only regret if the Bill was lost. He could see no hope for it.

THE COLONIAL SECRETARY: Although it was not usual for members to address the House on a motion for adjournment, he could only say he reciprocated to the greatest possible extent the regret Dr. Hackett had expressed with regard to the unhappy fate this measure had met with. He did not think he could be in any way blamed for it. He expressed clearly and fully to the House the extent to which the Government were prepared to go, and what would happen if they were forced beyond that. The Government felt that they could not go farther, and there was nothing for them to do but drop the Bill.

Question put and passed.

The House adjourned accordingly at 8·48 o'clock, until the next day.