

## Legislative Assembly,

Wednesday, 5th October, 1898.

Question: Electric Light in James-street School (Perth)—Question: Water Mains, East Fremantle—Question: Mining Commission and Railway Passes—Motion for Papers: Reports on Post Office (Additional)—Motion for Papers: Peak Hill Alluvial Disputes—Return: Menzies Town Allotments, Sale—Motion: Diamond Prospecting Regulations, to Disallow Additions; Amendment (passed) — Motion: Goldfields Regulations, Select Committee—Rivers Pollution Bill, Discharge of Order—Bankruptcy Act Amendment Bill, second reading; in Committee, reported—Bills of Sale Bill, in Committee, progress reported—Wines, Beer, and Spirit Sale Amendment Bill, Legislative Council's Amendments, in Committee—Adjournment.

THE SPEAKER took the chair at 4.30 o'clock p.m.

## PRAYERS.

## QUESTION: ELECTRIC LIGHT IN JAMES-STREET SCHOOL (PERTH).

MR. VOSPER asked the Director of Public Works,—1, What the Electric Light Installation at the James street school had cost. 2, Whether the installation was fitted by the Government or by contract. 3, If by contract, who were the contractors. 4, Whether it had been necessary to materially alter and repair the work, and, if so, at whose expense. 5, What had been the cause and cost of such alterations or repairs. 6, Whether the installation at the present time was in a satisfactory condition.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) replied: 1, £429 13s. 4d., including temporary Technical School, and temporary connection from Museum plant. 2, By the Government partly, and by contract partly. 3, Messrs. Splatt, Wall, and Co. 4, No; a breakage of water connections damaged switches on three occasions. 5, The cost was small, but was not separated, as the repairs were effected during the period of the installation. 6, Yes.

## QUESTION: WATER MAINS. EAST FREMANTLE.

MR. HOLMES asked the Director of Public Works,—1, Whether he intended

to have the water mains at East Fremantle connected with the new reservoir. 2, If so, when.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) replied—1 and 2, The water mains laid by the Government in East Fremantle are already connected with the new reservoir. They are now being tested, and it is expected that the water will be available for use in the course of a few days.

## QUESTION: MINING COMMISSION AND RAILWAY PASSES.

MR. WALLACE asked the Commissioner of Railways,—1, The names of all persons employed on the Mining Commission to whom railway passes were supplied. 2, Whether any of such passes were still being used, and if so, by whom.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied:—1, No free passes were issued, but the Mining Department obtained and paid for season tickets for Messrs. M'Kenzie, Thompson, Grant, Gilbert, George, Eaton, Searvell, Bryant, Gale, Barrett, Gill, and the secretary. 2, The period for which these season tickets were issued has expired, and all but three have been returned.

## MOTION FOR PAPERS: REPORTS ON POST OFFICE.

MR. WILSON (Canning) moved—"That there be laid upon the table of the House the reports made by Mr. Stewart, during the past two years, in connection with the post-office and its different branches." He said these were reports additional to those he had moved for previously, and he had only recently ascertained that Mr. Stewart had made reports on the Post-office Department.

Question put and passed.

## MOTION FOR PAPERS: PEAK HILL ALLUVIAL DISPUTES.

On the motion of MR. VOSPER (North-East Coolgardie), ordered that there be laid on the table of the House all correspondence between the Premier and Mr. Frank Reed, and between Mr. Frank Reed and the warden of the Peak Hill Goldfield, in reference to recent alluvial disputes at that place.

**RETURN: MENZIES TOWN ALLOTMENTS, SALE.**

On the motion of Mr. VOSPER (North-East Coolgardie), ordered that a return be laid on the table of this House, showing—1, the names of all purchasers of town allotments sold at Menzies on the 9th October, 1895; 2, the names of all purchasers who on that occasion secured allotments at the upset price; 3, the date of the completion of purchase in each case (*i.e.*, the date on which the final payment was made); 4, the number of cases, if any, in which the conditions of sale were departed from by an extension of time for the payment of the final or any instalment of the purchase money; 5, the names of all persons who were given an extension of time to pay the final instalment, or any portion of the purchase money, and the reason therefor in each case.

**MOTION: DIAMOND PROSPECTING REGULATIONS.**

TO DISALLOW ADDITIONS.

MR. KINGSMILL (Pilbarra) moved:

That the additions to Regulations 80 and 84, under the provisions of the Mineral Lands Act 1892, laid upon the table of this House on September 13, 1898, be not approved by this House.

He asked hon. members to view this question in an unbiassed manner. Under the Mineral Lands Act, certain additional regulations had been made and laid on the table of this House, and it was for the House to amend or disallow those regulations. He moved in this matter because remarks which were prevalent in the city and elsewhere led him to believe that the regulations referred to would apply particularly to the district which he represented, and he therefore felt it his duty to protest against these regulations. One principle in the mining laws of all countries was that the more valuable the product obtained from the ground the smaller the area granted for obtaining it; but this rule had scarcely been followed in the present instance. Diamonds and other precious stones were practically the most valuable products for which operations could be carried on, next to them coming gold; and he asked members to compare the size of holdings in the two cases. In

gold-mining, 24 acres could be obtained as a reward claim for prospecting and finding payable gold in a new field; whereas the newly proclaimed regulations, 80 and 84, made under the Mineral Lands Act, provided that outside a mining district a prospecting area of 80 chains by 80 chains should be granted to any person desirous of prospecting for diamonds or other precious stones; also that a reward claim of 320 acres, outside a mining district, should be granted to any person finding diamonds or precious stones in payable quantity, and inside a mining district a reward claim of 160 acres should be granted. These areas were altogether out of proportion to what they should be, and were quite abnormal; but this was not the worst or most dangerous part of the regulations. Appended to the regulations, with regard to reward claims, was a proviso that no side of a reward claim block should be less than 10 chains; therefore if, as was feasible, any prospector pegged out a reward claim without the preliminary of a protection area, it was possible for him to obtain a strip of land four miles in length and 220 yards in breadth outside a mining district. Within a mining district, the case was somewhat better, but still it was preposterous, because a man might peg out a strip of land two miles long by 220 yards wide. In the interests of people inhabiting the districts affected, and also in the interests of the mining community of Western Australia, he desired these regulations to be taken into consideration, and to see an amendment made. It would not be out of place if he were to recall a few facts relative to those parts of the world where diamonds hitherto had been found. The fields that perhaps produced more diamonds than any other, and in which the labour conditions were more likely to approximate to our own, were the Kimberley fields of South Africa. The occurrence of diamonds on those fields was, scientifically, absolutely unique. In no other part of the world had diamonds been found under the same circumstances. Diamonds were found in the Kimberley fields in what were geologically known as pine veins, running to a great depth. The claims now allowed upon those

fields were 31ft. by 31ft. As the sinking for diamonds became deeper, it was found necessary to amalgamate claims; but as far as he was able to glean, the labour conditions attaching to them were still kept up. These fields were first worked by individual miners; each man practically owning a claim, either by himself or in small amalgamations with other claim-holders. The matrix, which was for a certainty the original matrix—and he said for a certainty because in other instances there was some conflict—consisted on the surface of yellow and loose clay, known locally as yellow ground. This yellow clay was an oxidised form of what was known lower down as blue ground, in which the workings at present were carried on. In another part of South Africa, at Clarksdorff, the diamonds were found in conglomerate which the mine-owners were working for gold, the diamonds being in conjunction with and in juxtaposition to the gold. The great fields of the southern parts of India, as indeed most other fields consisted of conglomerate and alluvial. The workings were shallow, and in no place did he think they exceeded 30ft. deep; and the diamonds were found in a seam of the conglomerate. In Brazil, there were practically the same circumstances, the diamonds occurring in conglomerates and in alluvial river beds; and in this instance also in conjunction with highly payable gold. Diamonds were found in the island of Borneo as alluvial wash in the river beds, and they were obtained by the alluvial process. In this instance, also, they were found in conjunction with gold. In New South Wales, in the Bingera field, which formed practically the only approach to a diamond field in Australia, the same conditions again held good. The diamonds there were found by diggers when they were exercising their vocation of digging for gold, in an old river bed, which was in some parts cemented and had become conglomerate. In this case, also, diamonds were associated with gold. Again, a few diamonds had been found in South Australia, being discovered on a goldfield about 30 miles from Adelaide. These were found in alluvial gullies, and in conjunction with payable gold. In Russia, too, in the Ural Moun-

tains, he believed a few diamonds had been found in alluvial, and still they were associated with gold, and also, in this instance, with a little platinum. He thought that these minor instances might well be left out of consideration. There were three great sources of diamonds in the world, these being South Africa, India, and Brazil. In India the diamonds for the greater part—indeed altogether, so far as payability went—were worked by native labour under the direction of the head men of the tribes or castes, and for their benefit. The men working them had no ambition in life beyond making a bare living out of the industry in which they were engaged; they had no ambition to possess diamonds; and if they had them, they practically would not know what to do with them. There were castes in India as degraded, practically, as the aboriginal natives of this colony. In Brazil, diamonds were worked by the Government, for the greater part, by penal labour; and in the case of private owners, by negro labour. In South Africa the fields were worked by diggers who were labouring for themselves, and thousands of these men made fortunes, not only enriching themselves, but the districts in which they laboured, and the country to which they belonged. To return to our own country, he (Mr. Kingsmill) had known, in the last eight or nine years, of the existence of diamonds in the North-West; in fact, he thought he was the first to identify stones found at Nullagine as diamonds. A great deal of attention was paid to the subject at the time, and a large amount of work was done with a view of working the ground for the sake of the diamonds; but it was discovered that such work was most distinctly unpayable in the absence of legislation providing for mining for diamonds. The area was the same as for a gold-mining lease, and fields were abandoned because the diamonds were found to be not payable. That happened four or five years ago. From his own experience in that district, he assured hon. members that diamonds occurred in conjunction and along with eminently payable gold. He had seen, and had himself obtained, diamonds in a dish with an eminently payable prospect of gold. Diamonds had been

found in the conglomerate matrix in the North-West, and the particular area of conglomerate had been worked, and was still being worked as a gold-mining lease. On every occasion on which a crushing took place in connection with that leased area, fragments of diamonds, varying in size, were found in the boxes and in the battery, and there was no doubt a further amount must have been crushed into fine powder, and carted away with the tailings. In view of the facts he had stated about the occurrence of diamonds in other parts of the world, and their similar occurrence in the North-West of this colony, we might take it for granted that, as diamond-bearing conglomerate was known to exist here, and as the matrix in other parts of the world appeared to be conglomerate, also as diamonds were invariably associated with gold, payable or not, we might assume that any further discoveries of diamonds north of the tropic of Capricorn, as the regulations expressed it, would also be of that nature. As to his objections to the regulations, this House was very solid on the question of abolishing the dual title to gold-bearing areas; and as diamonds were almost certain to occur in conjunction with gold, the consequence would be that, by granting a reward claim of 320 acres to work for diamonds and 160 acres leases for diamond mining, what would the prospector do with any gold which he obtained in his area while searching for diamonds? He would certainly not put it back in the ground. Therefore, by granting so large an area as a reward claim, we should be practically locking up 320 acres of gold-bearing ground, besides leases which the party might take up; thus giving to the prospector and his party the right to exclude other persons from a large extent of valuable country. Was it desirable to do that? On the other hand, by not taking this course, we must allow someone else to obtain that gold; and in granting the ground for obtaining gold, how was the gold-seeker to be prevented from obtaining diamonds also? When obtained, he would not be likely to hand them over to the original proprietor of the ground; therefore, this would be an almost fatal objection to the course proposed in the regulations. Another objec-

tion was that the regulations were a flagrant violation of the principle he had stated, that the more valuable the product, the smaller the area allowed. He was thoroughly in sympathy with the idea of granting a full, fitting, and proper reward to the prospector of any kind of mineral field which would bring prosperity to this colony; but, in giving away 320 acres as a reward claim, or even 160 acres as an ordinary claim, the Government would be acting most unwisely. He suggested that a reward claim, and also an ordinary claim for diamond mining, should approximate more nearly to those now in vogue for gold mining. Anybody who obtained a 24-acre reward claim, or even if Parliament were generously to make it 48 acres, would be amply rewarded for his exertions in prospecting for diamonds; or, if that was not a sufficient inducement, then the Government should offer a bonus, being well assured that any bonus, say £1,000, would be well repaid, directly or indirectly, by the discovery of a payable diamond field. In giving a bonus to the prospector, we should be giving him a definite value; whereas in giving him a large area of gold-bearing or diamond country, we might be giving him ground worth millions in value. Was the object of this House to do good to the few or to the many? By taking the course proposed in the regulations, we would be locking up a large area for the use of one man, whereas that ground, if rich, might employ practically a thousand men. The only solution appeared to be to make the area of a reward claim for diamonds approximate to that offered for the discovery of gold, so that no man would get an undue amount of land, and every prospector and miner would have a fair chance of obtaining some share of the country's undoubted mineral wealth. From his experience in the North-West district, extending over eight years, and not confined to one part, but embracing all parts, he could say the extent of this conglomerate ground in which diamonds might occur was, in all cases, limited. In the Nullagine district, for instance, if a prospecting area of one square mile were granted on that conglomerate, it would more than absorb every square yard of it, so far as was known. Most of the patches of conglomerate in the district were of

like extent; and if a diamond field were discovered, it would probably prove to be a one-man field. Therefore, on behalf of his constituents, on behalf of the inhabitants of the northern districts, and of the mining community in the whole colony, he appealed to the House not to lock up this land in the hands of one man, but allow every miner to have a fair show, and a share in the mineral wealth which this country undoubtedly possessed.

MR. KENNY (North Murchison) seconded the motion.

THE MINISTER OF MINES (Hon. H. B. Lefroy): The Mineral Lands Act provided that the regulations made under it should be laid before Parliament within 14 days after such regulations were made. The Act did not say the regulations should be laid before Parliament for approval, but only that they should be laid before Parliament. Still, it was always optional for Parliament to pass a substantive resolution in regard to any regulations laid before it; consequently the hon. member was within his right in practically moving that the particular regulations should not be agreed to. It would have been more advisable to have brought this matter forward at an earlier date, seeing that the regulations were laid on the table on the 13th of September; and it would have been more in the interests of all parties if the hon. member had moved earlier in the matter. Nothing had been done *sub rosa* in regard to the regulations; for directly the regulations were approved of in Executive Council, they were laid on the table of this House without waiting for the 14 days. It had been represented to him that it was possible diamonds might be discovered in various parts of this colony. It would be admitted that such a discovery would be the best thing that could happen in the interests of the colony; and, in order to induce persons to go out and search for diamonds, it was considered advisable to grant a considerable area as a reward for such discovery. It was not likely anyone would go out, who thought he had a probability of finding payable diamonds, and properly equipped with an expensive party to search for them in the Northern parts of this colony, unless he had some sufficient protection in his operations; so that, while prosecuting the search, no-

body else should come in and take away the value of that which he had discovered, perhaps before he had time to test and report it. So far, payable diamonds had not been found in the northern parts of the colony. Some considerable time ago he had been waited on by a gentleman, who said he had been on many diamond fields in other parts of the world, and thought, from the class of country we had in the North, that payable diamonds could probably be discovered. This gentleman was willing to search for them, but wished to be protected from molestation in his search. After careful consideration, he (the Minister) decided that the only practicable course was to bring diamonds under the provisions of the Mineral Lands Act, including the labour conditions, and this had been done. The necessity for a large prospecting area was represented to him; therefore it was decided that anyone could go north of the tropic of Capricorn, outside a mining district as declared under the Mineral Lands Act, and take up a protection area of one square mile to prospect for diamonds. To that there could be no objection, for the discovery of payable diamonds would be a splendid thing for the country. Many years passed before payable gold was discovered in this colony; and would anyone, 12 or 15 years ago, have thought that the Government were acting foolishly if they had offered a person one, or even five, square mile of country as a reward for the discovery of a payable goldfield? The Government actually gave one company 130 acres—a whole goldfield in itself; and that did not seem to have made any difference to the country. If the holders wished to work the gold, they would have to comply with the labour conditions. Opal was a valuable stone; yet no one objected to a man taking up a large area of country to prospect for opals. Under the new regulations, a man could take up one square mile to prospect for diamonds; and if he discovered diamonds in payable quantity, he would be entitled to 320 acres as a reward claim, inside a mining district.

MR. ILLINGWORTH: Suppose he were getting gold?

THE MINISTER OF MINES: The Mineral Lands Act provided for that, by im-

posing an extra rental for the extraction of gold in case of any gold being found associated or combined with any other mineral or metal in land held under such a lease.

MR. KINGSMILL: Of what use would this be to the community?

THE MINISTER OF MINES: Of great use. Labour must be employed to extract the gold from the land. Moreover, these concessions could be obtained only on Crown lands—not on gold-mining leases or on land held on mineral lease. The hon. member (Mr. Kingsmill) seemed to think that diamonds were likely to be as thick as blackberries in the North. If they were, so much the better; for the discovery of a really rich field would result in one of the biggest rushes ever seen in this country. If a man discovered diamonds on his prospecting area, he must report the discovery, on penalty of forfeiture of the claim.

MR. ILLINGWORTH: What was the size of the Kimberley diamond fields in South Africa?

THE MINISTER OF MINES said he did not profess to know anything about them.

MR. LEAKE: The Minister ought to have studied the subject.

THE MINISTER OF MINES: It only required ordinary common sense to perceive the wisdom of offering a reward claim of 320 acres to such prospectors.

MR. EWING: There might be only 320 acres of payable country altogether.

THE MINISTER OF MINES: Was it likely that the diamonds would all be concentrated in one block of 320 acres?

MR. VOSPER: Nothing more likely.

THE MINISTER OF MINES: Even so, the prospector well deserved his reward; for, had he not made the discovery, the claim might have lain untouched for centuries, and useless to the country. But it was as likely as not that the reward claim would not contain the best paying country, and that the men who followed the prospector would reap the fruits of his labour and experience by getting more valuable properties. The main object of the Government was to induce people to go out to discover diamonds. If they were discovered, what mattered it if half-a-mile of country were given to the discoverer? It would be an excellent thing for the colony, for large numbers of

people would have to be employed to work the mine; and, under the Mineral Lands Act, no Asiatic could be employed, as was done in Africa and India.

MR. LEAKE: Who was the prospector who had already gone out?

THE MINISTER OF MINES: A Mr. Achimovich, he believed an Austrian, who had been for many years in the colony prospecting in the North, and in our eastern goldfields, at considerable expense.

MR. LEAKE: With these regulations in his pocket?

THE MINISTER OF MINES: Certainly; the man must have some protection.

MR. LEAKE: Did he represent a company or syndicate?

THE MINISTER OF MINES: He represented himself only. He (the Minister) knew nobody in the affair but the one man, who was a *bona fide* prospector.

MR. EWING: Who was backing him?

THE MINISTER OF MINES said he did not know. This matter had been discussed by the Government as a whole.

MR. ILLINGWORTH: In Cabinet?

THE MINISTER OF MINES: By the whole of the Cabinet.

MR. ILLINGWORTH: That was what he had thought.

THE MINISTER OF MINES: Did the hon. member insinuate anything? He (the Minister) considered he was doing his duty to the country in recommending regulations such as these. If this prospector found payable diamonds, the regulations would be one of the best steps he (the Minister) had ever taken in the interests of the country. He hoped the House would agree with him that a regulation such as that now in existence, which was purely a tentative measure, was advisable, and that they would approve of it. The object was simply to make a new discovery of diamonds, and if we could find we had payable diamond fields, we should have done the very best thing possible.

MR. ILLINGWORTH: Had not the discovery already been made?

THE MINISTER OF MINES: It was not within his knowledge that payable diamonds had been found, and he was very doubtful whether any would be. His own opinion was that they would not;

but still, inducement was offered. If he knew that payable diamonds existed in the country, he would not attempt to recommend anything of this sort.

MR. VOSPER: Then, where did the reward of the discoverer come in?

THE MINISTER OF MINES: Some time ago, it might have been a year or eighteen months, the Government gave a gentleman named Groome, a certain amount of money to go up in that district and make an examination relative to the reported existence of diamonds. Mr. Groome did not report favourably with regard to the likelihood of payable diamonds being found. He discovered diamonds, but from what he (the Minister of Mines) could gather from the report, it was a purely "specking" country; and if there were any diamonds, they existed far apart, so that anyone taking up country to win the diamonds would require a considerable area, or else it would not pay. If payable diamonds were discovered, the Government would come in and make special regulations to meet the case.

A MEMBER: After persons had obtained an area?

THE MINISTER OF MINES: Certainly. If a man went up there and discovered payable diamonds on a certain spot, the probability was there would be payable diamonds in some other parts. We had millions and millions of acres of country, and surely there was enough to bring under the Mineral Lands Act, or under the Act dealing specially with diamonds, any diamonds that were discovered. The new regulation was made in the interests of the country, and he hoped the House would not interfere with it in any way. He hoped the House would allow the question to be tested, and, if possible, permit the inducement offered in the regulations to remain in force, so that if payable diamonds were discovered, there might be some substantial reward for the discoverer.

MR. VOSPER (North-East Coolgardie): The member for Pilbarra (Mr. Kingsmill) had done well to bring the matter before the House at this stage. He believed it had been said, during the last few weeks, that payable diamonds had been found, and even that a diamond "ring" had been formed in Perth and also in the North-

West. It behoved the House to proceed with great caution, in dealing with the question of finding diamonds. He understood the member for Pilbarra to say the effect of the existing regulations would be to allow some 1,600 acres to be taken up by a person searching for diamonds, and that it might be taken up in such a form that, in the event of diamonds occurring in the bed of a river, he could take up four miles. If that rule had held good in South Africa at the time of the discovery of diamonds, what would have been the result? Alluvial diamonds were found in wash extending for 16 miles along the Vaal River; and had this plan of the Government been in operation in South Africa at that time, instead of there being hundreds of men taking up claims, four men could have taken up the whole length of the diamond country on the Vaal. In regard to the diamonds in the Kimberley district, it was said by a member who interjected that the district consisted of over 100 square miles. That might be true, but the diamondiferous area was extremely limited; and if any person were allowed to have 320 acres of the field, it might comprise the whole of the diamondiferous mines. There was a monopoly, but that had been brought about by buying out the original claim-owners, and not because the Government granted it to one person. The Kimberley mines had produced, since the amalgamation, diamonds to the value of £60,000,000, and the whole of those diamonds were covered by an area considerably less than 320 acres. It was all very well to say we were going to give the prospector a reward. He should have a reward, but were we going to take the risk of giving him the monopoly of £60,000,000 worth of diamonds? The assertion by the Minister that if diamonds were found in one place they would be found in another was nonsense. It might sound paradoxical, but the more diamonds were found, the less there would be.

THE ATTORNEY GENERAL: Such was not the case in relation to the South African experiment.

MR. VOSPER: It was. The diamonds were all comprised within the Kimberley district, and they were all within a few miles of Kimberley town. The most remote diamond mines of the Kimberley

district were not more than five or six miles from Kimberley itself, and the whole of the diamonds found on the Vaal River were comprised within 16 miles of its course.

MR. MORAN: The diamond fields of Brazil covered hundreds, and perhaps thousands of miles.

MR. VOSPER: The diamond fields of Brazil did cover hundreds of square miles, but when there was one man to a square mile, it did not matter how many were discovered.

MR. MORAN: That was an argument for a big claim.

MR. VOSPER: It was not. The areas were not so large as those proposed to be given here. There was one neighbourhood in which he believed a large amount of diamond mining was carried on, but the property was freehold. We should certainly have to exercise a great deal more caution than the Minister seemed to have done in connection with this business. He (Mr. Vosper) believed we were on the eve of great discoveries in connection with gems and precious minerals; and, if we were going to lock up that country as soon as it was discovered, we should be giving away in advance all the benefits the country should receive from the discovery.

THE MINISTER OF MINES: There had been power to lock it up for opals for some considerable time.

MR. VOSPER: That was because there had been no serious mining for opals.

THE MINISTER OF MINES: And there had been no serious mining for diamonds.

MR. VOSPER: The existence of diamonds would be important national wealth, and we had no right to give that wealth away in large quantities to the persons who might make discoveries. In regard to opals, supposing the people of New South Wales and Queensland were willing to grant a square mile to prospect for them, and then subsequently granted 320 acres as a reward claim to everyone who discovered opals, the best of the opal fields would, under such circumstances, be owned by a few.

A MEMBER: So it was.

MR. VOSPER: That was by purchase. He should certainly support the motion of the member for Pilbarra, and he hoped the result would be that the existing regu-

lations would be withdrawn, and that in the course of the next session, or at some suitable period, we might see a Bill brought down to deal with the whole subject.

Around Coolgardie—and he investigated the circumstances himself—a large number of different kinds of opal were found, as were other gems, and the same thing applied to other parts of the colony. In the Geraldton district, the garnet, the topaz, and opaline were very common. There were millions along the sand on the sea shore and the bed of the river. These gems might be payable, or they might not; but there were indications that there might be a valuable gem field in that neighbourhood. We should be prepared to give facilities for the discovery of gems, and to grant a liberal reward; but we ought not to give a man who discovered one single diamond—and the discovery of a single diamond would constitute an area a payable diamond field—320 acres of ground. A diamond, like virtue, was its own reward; and if a man found a big one, it was a sufficient reward without the Government interfering. The Government had no right to lock up 320 acres of ground because a man found, perhaps, one valuable diamond. The only effect of locking up the ground would be to kill the diamond industry in its infancy: therefore he would support the motion.

MR. GREGORY (North Coolgardie): The House should take cognisance of this important matter; for, if these regulations were not rescinded, a great loss to the colony might result. A man who discovered a rich gold mine was rewarded with a 6-acre block, and had to put on two men to work on it. The greatest area one man could take under a gold-mining lease was 24 acres.

THE MINISTER OF MINES: We had got gold already, and we wanted to establish a new industry.

MR. GREGORY: But the new industry should be placed on the same level as the gold-mining industry, and a reward claim, such as was proposed in the regulations, was so large that the whole area of a diamond field might be taken up by one party.

THE MINISTER OF MINES: We need not grant a lease.

Mr. GREGORY: Diamonds were supposed to have been discovered, according to rumours which were current, and these regulations were brought out while the rumours were going about. In granting an area for coal mining, the Government stipulated for a royalty; and in the case of mining for tin, silver, or antimony, the area allowed was 40 acres. Why, therefore, should such a large area be given in the case of diamond-mining? In South Africa, the area of a claim was 31ft. by 31ft., and in the Transvaal it was 30ft. by 30ft.; yet here it was proposed to give a reward claim of 320 acres and a lease of 160 acres. A man who discovered diamonds should have some reward; but why not give him a reward claim like that offered in the case of discovering a new goldfield, instead of allowing the finder of diamonds and his party to take up a whole country under these regulations?

THE MINISTER OF MINES: We simply wanted to induce someone to make a discovery of diamonds.

Mr. GREGORY: Attention having been called in another place, and also in this House, to the regulations, he hoped the area would be considerably reduced.

Mr. SOLOMON (South Fremantle) supported the motion. It would be suicidal to give such a large area of land for the discovery of diamonds. Better give 24 acres on the production of a certain amount of diamonds, and offer a substantial bonus also. To give away a large area of diamond-bearing country might be a gift of so great a value that it could not be estimated.

Mr. MITCHELL (Murchison): The regulations gave the right over a square mile of country, in the event of diamonds in payable quantities being discovered. His difficulty was as to whether those who discovered diamonds would declare the fact, and he thought they would not. The regulations for the discovery and working of diamonds should be assimilated to those for the discovery and working of gold, and the area proposed to be given for diamond mining was certainly too large.

Mr. ILLINGWORTH (Central Murchison): It would be possible for a man to drop on a piece of gold-bearing country, and, on pretence of looking for diamonds, he might lock up a large area of valuable

country. The area allowed in the case of discovering a new goldfield was of limited size as a reward claim, and surely diamonds were not inferior in value to gold in the reward they gave to the discoverer? If diamonds were discovered in payable quantity, they would be likely to return a considerable reward to the finder, although a bonus might be given as an additional inducement for the discovery of a payable diamond field. It did seem a mistake to place the discovery of diamonds under the Mineral Lands Act instead of under the Goldfields Act, because the Mineral Lands Act related to minerals of lesser value, such as coal and tin. The regulations for a diamond field should be assimilated to those for a goldfield; and if 24 acres were sufficient for gold-mining purposes, together with the power of amalgamating several leases, the same should be sufficient for diamond mining. According to the information of the man in the street, diamonds had been already discovered, and a party was said to have been formed for taking up ground on the supposed diamond field; and it was a curious coincidence that these rumours should be going about at the time these regulations in regard to the discovery of a diamond field were issued by the Government, although he did not suggest there was any necessary connection between the two incidents. While having no knowledge himself about diamonds, the area which was proposed in the regulations did appear to be too large, especially in view of the fact that diamond fields appeared to be very limited in area in South Africa and elsewhere. These regulations should be disallowed, and it should be an instruction from this House that the areas and the regulations for diamond mining should be the same as those for gold mining.

AMENDMENT—TO FURTHER CONSIDER.

Mr. MORGANS (Coolgardie): This question bristled with difficulties. What was meant, for instance, by a payable diamond field?

Mr. VOSPER: One solitary diamond, perhaps.

Mr. MORGANS: No; that would not do. The mover's description of the conditions in which diamond mining was prosecuted elsewhere was correct, so far as he (Mr. Morgans) knew; and the condi-

tions under which diamond mining was carried on in South Africa might be said to be the most favourable in the world, for there the stones were found in soft clay, called "yellow" and "blue" wash, for it was yellow on the surface and blue below. No blasting was required, but the clay was dug out of the ground, mixed with water by machinery, then washed off, and the diamonds remained. But in the case of conglomerate, the conditions were different; for to obtain a carat of diamonds from the hard conglomerate matrix might cost 50 times as much as to obtain a carat in the soft yellow wash of South Africa. Therefore the Government of this colony had not sufficient evidence as to the nature of diamond country in this colony to be able to arrive at a conclusion with regard to the proper size for a reward claim; and the Government should obtain more information, before going further, as to the nature of the ground, and the number and value of the stones likely to be found in a given area. Possibly an acre of conglomerate might be prospected without giving a sufficient return to cover expenses; and, on the other hand, in 20 cubic yards a very rich find might be discovered.

MR. ILLINOWORTH: The regulation gave 320 acres in all cases.

MR. MORGANS: The wisdom of that was doubtful, for if the diamonds were accompanied by gold, as stated by the member for Pilbarra (Mr. Kingsmill), it would be necessary to give the diamonds and the gold together. This point required grave consideration. Suppose that, after exploiting 10 acres of diamond conglomerate, it was found that the yield of diamonds only paid expenses, then a reward claim of even 500 acres would hardly compensate the miner for taking it up; but, if the field were payable, a 10-acre reward claim would be ample. Therefore, let us know the conditions before the area was fixed. He moved, as an amendment on the motion, that the following words be added:

Until this House has had time and opportunity to fully consider all the conditions under which payable diamonds have been discovered, and take part in deciding the area that shall be given as a reward.

MR. LEAKE (Albany) seconded the amendment. The thanks of the House were due to the member for Pilbarra for

bringing forward this motion, and for his lucid explanation of the situation. For some time past there had been rumours of the discovery of diamonds; but the hon. member said he had seen specimens of the stones discovered in the North-West.

MR. VOSPER: There were some in the Perth Museum.

MR. MONGER: The member for Pilbarra had known of them for the last 8 or 10 years, but had never done anything with them.

MR. KINGSMILL said he had been unable so far to get people to take up the industry.

MR. LEAKE: It was not unnatural that someone should be anxious to exploit the locality, and that this Austrian gentleman had been urging the Minister to make some regulation providing for prospecting. Presumably that gentleman represented others; and it was pleasing to think there were some people in the colony willing to put their hands in their pockets to explore the North-West with the idea of finding precious stones. The only question was, whether in the circumstances the Government had acted reasonably and properly. The new regulations framed under the Mineral Lands Act were, as regulations, perfectly right and proper; but it had been pointed out by the member for Pilbarra that they were defective in detail, that they would lock up larger areas than the circumstances justified. The House must be convinced, by the hon. member's arguments, that a fair basis for such regulations would be that upon which the goldfields regulations were founded. In proportion to the greater value of the product, so should the area granted be diminished. Why give a larger area to the diamond prospector than to the gold-miner? He urged the House to support the motion; and he was the more convinced he was right when he found it supported by others who understood the practical side of the question, like the member for Coolgardie (Mr. Morgans) and the member for North-East Coolgardie (Mr. Vosper). To grant an area of 220 yards by two miles was out of all proportion, and no reasonable man could require protection to such an extent. The error evidently proceeded from the Minister's lack of knowledge, which had been candidly

admitted; but it might have been expected that the hon. gentleman, having to meet a direct motion such as this one, would have informed himself upon the subject to be debated, so that he might have done more than merely tell the House that he hoped the motion would not be supported. If the prospector were given such areas as were contemplated by the goldfields regulations—a prospecting area, a reward claim, and possibly a claim—he would be treated with the utmost liberality, particularly in view of the statement that an ordinary diamond claim was only 31ft. by 31ft. But we were asked to give 220 yards by 2 miles. To do this would make us the laughing-stock of our fellow-citizens and of our neighbours.

**THE ATTORNEY GENERAL:** Was not 31ft. by 31ft. the area allowed after the diamond field had been proclaimed?

**MR. LEAKE:** Possibly; but it showed, when the field had proved to be valuable, how small an area was considered sufficient to enable a man to pursue his calling as a diamond miner, and it showed that the Government proposal was out of all proportion. The diamond was more valuable than gold, according to relative weights. Our Crown grants specially reserved gems and precious stones, thus recognising their value. He was convinced by the speech of the mover, and the ensuing debate, that a grave mistake had been made in passing these regulations; and this was an instance of the value attaching to the publication of regulations, after placing them on the table of the House. Had it not been for the vigilance of the member for Pilbarra, this matter would not have been specially referred to; and hon. members would afterwards have been told that these regulations had been published when the House was in session, had been laid on the table without exception being taken to them, and that therefore no exception should be taken to them at any future time. Happily they had been criticised, and fairly so, by the member for Pilbarra. The House ought to thank the hon. member for what had been done, and compliment him on the lucid manner in which he explained his motion.

**MR. DOHERTY (North Fremantle):** This question came before the House in

rather a hurried manner, and members who had not read up the subject had not sufficient time for consideration. He quite bore out what the member for Pilbarra (Mr. Kingsmill) said in reference to diamonds. In 1892 some prospectors came in from Roebourne, and had a few diamonds in their possession. He believed they were tested at the time, and were found to be of no commercial value; that the quality was sufficiently good, but the stones were not large enough. Moreover, they were scattered over such a large portion of the creek they were found in, that the prospectors did not think it worth while to go on with the undertaking. If, at the present time, any prospector discovered a better field, and it might be within two miles of the same vicinity where diamonds had been proved to exist, some reward should be given to him. The discovery of diamonds would make this colony one of the finest in Australia, and no one knew better than members of this House the amount of good it would do as regarded population, wealth, and the introduction of capital. He took it for granted that some diamonds had been found, and that a prospector had come to Perth and reported the matter in some form. That man might since have gone on his way with the idea that the Government had granted him 320 acres, as the new regulations indicated; and the discoverer might have pegged out a very large area. If these regulations were now rescinded, the discoverer would have no claim to the ground he might have taken up; and yet a stranger who did nothing to discover the diamond country might go there and take the best part of the discoverer's claim. A Select Committee should be appointed to consider the regulations, and take evidence on the subject; and, if agreeable to the House, he would move a motion to that effect. By passing the present motion, and forcing the Government to rescind these regulations, we might be doing an immense amount of harm to the individual who had been prospecting so long. The fruits of his energy would be lost, and probably his money also.

**MR. LEAKE:** The person to whom reference was made was not the discoverer. He was following up the discovery of others.

MR. DOHERTY: As to the original discovery, the diamonds were, as he had said, scattered over the creek, and it was impossible for the men concerned to make their work pay. He knew well one of the men who found diamonds, and he was not a person to easily give up a task which he took in hand. That man travelled across the Macdonald Range, and was one of the original prospectors of the Kimberley goldfield. He would "live on the smell of an oil-rag" rather than give up an undertaking, if he thought there was any prospect of its success; but, in this case, he found it was no good to continue. The motion should be withdrawn, and the subject be referred to a Select Committee.

THE SPEAKER: It would be necessary to give notice for the appointment of a Select Committee.

MR. MORGANS asked leave to withdraw his amendment, but there being dissentient voices, the amendment remained to be put.

At 6.27 p.m. the SPEAKER left the chair.

At 7.30 the SPEAKER resumed the chair.

MR. MORAN (East Coolgardie): The debate had shown that members generally were not in possession of sufficient information on the subject to enable them to act definitely; and he intended to move, as an amendment, that the subject of the motion be referred to a Select Committee.

THE SPEAKER: That would be an amendment on the amendment before the House. The amendment (moved by Mr. Morgans) must first be disposed of, before the hon member's amendment could be moved.

Amendment (previously moved by Mr. Morgans) put, and negatived on the voices.

#### AMENDMENT—SELECT COMMITTEE.

MR. MORAN then moved, as an amendment on the motion, that all the words after "be," in the second line, be struck out, and the following inserted in lieu thereof: "referred to a Select Committee of this House."

MR. ILLINGWORTH: It would be well to consider the effect of this amendment, for as the regulations were now in force, and would remain so unless disapproved by this House, it was not desirable to leave the question in that position. The

House should dissent from the regulations by passing a motion, in order that the regulations might not be put into operation; and he hoped the mover would stand to his motion for disposing of the regulations, as presumably they would otherwise be in force.

THE SPEAKER: Yes; the regulations would stand at present.

MR. ILLINGWORTH: The tone of the debate had shown that the House generally was against the regulations, and the motion should be passed as a protest against them.

THE MINISTER OF MINES: The fact of the House disapproving of a regulation could hardly be supposed to cancel that regulation. Still, the Government would naturally take the opinion of the House into consideration, and would rescind the regulations on a unanimous expression of opinion by hon. members.

MR. ILLINGWORTH: Must it be unanimous?

THE MINISTER OF MINES: Not necessarily. The Government would at all times adopt the recommendation of a majority of the House. There could be no doubt of the wisdom of submitting the question to a Select Committee; and, if this were done, he assured the House that no reward claim would be granted till the Select Committee had reported. That assurance ought to be sufficient.

MR. ILLINGWORTH: Quite sufficient. But suppose a man pegged out a claim?

THE MINISTER OF MINES: He would have no right to retain it. The Government had no desire to enforce the regulations contrary to the wishes of Parliament. The new departure was made in perfect good faith, with the sole object of facilitating the discovery of a payable diamond field.

MR. VOSPER: Could a man be prevented from taking up 640 acres under the regulations?

THE MINISTER OF MINES: The fact of a man taking possession of that area would hardly give him any right or title to the land.

MR. VOSPER: It would give him the right to prospect.

THE MINISTER OF MINES: At all events, he (the Minister) was prepared to do what he could to prevent any prospecting under these regulations, until the

House had an opportunity of deciding the question.

MR. LEAKE: No one wished to stop prospecting.

THE MINISTER OF MINES: True.

MR. KINGSMILL: After the assurance of the Minister, the House need not fear to trust the decision of the matter to a Select Committee. Moreover, from what he (the mover) knew so far, no outside action need be anticipated in the meantime; and he was fully assured that new regulations could be promulgated before it would be necessary to enforce them.

Amendment (Mr. Moran's) put and passed, and the motion, as amended, agreed to.

THE SPEAKER: It would now be necessary to ballot for a Select Committee. He did not regard the member for Pilbarra (Mr. Kingsmill) as the mover for a Select Committee, that amendment having been moved by the member for East Coolgardie (Mr. Moran). The Committee, therefore, would consist of four members, together with the member for East Coolgardie.

A ballot for the Select Committee having been taken, the following members, in addition to the mover of the amendment (Mr. Moran), were elected:—Mr. Kingsmill, Mr. Lefroy, Mr. Kenny, and Mr. Vosper.

Ordered that the Committee report to the House on Wednesday, 12th October.

#### MOTION: GOLDFIELDS REGULATIONS, A SELECT COMMITTEE.

MR. KINGSMILL (Pilbarra) moved:

That a Select Committee of this House be appointed to report upon, and if necessary suggest alterations in, the regulations under the Goldfields Acts now in force.

He said he had decided to ask for a Select Committee because he felt that in the district he represented, at all events, some amendment might probably be attended with good results. More especially did he ask for the Committee to be appointed in order that he might place before them the advisability, in regard to remote districts like Pilbarra, of assimilating the labour conditions upon holdings under miners' rights, to those upon leases, of reducing the rents for market-garden areas, of making some amendment in the mode of taking up gold-mining leases,

and of reducing survey fees, if possible, under regulation 187. He wished to take a rather unusual course in reference to this Committee, for he desired, by the permission of the House, that it should consist of 11 members, so that all the goldfields members would have a chance of being represented on it.

MR. KENNY seconded the motion.

Question put and passed.

MR. KINGSMILL moved that the Committee consist of 11 members.

MR. MORAN: It was desirable to have the leader of the Opposition on the Committee, for his legal knowledge.

Question put and passed

A ballot having been taken, the following members were elected in addition to the mover:—Mr. Connor, Mr. Conolly, Mr. Gregory, Mr. Illingworth, Mr. Kenny, Mr. Leake, Mr. Moran, Mr. Morgans, Mr. Vosper, and Mr. Wallace; to report on the next Wednesday.

#### RIVERS POLLUTION BILL.

##### DISCHARGE OF ORDER.

The member in charge of the Bill not being present to move the second reading,

MR. MORAN moved that the order of the day be discharged.

MR. A. FORREST seconded.

Question put and passed, and the order discharged.

#### BANKRUPTCY ACT AMENDMENT BILL.

##### SECOND READING.

MR. GREGORY (North Coolgardie), in the absence of Mr. James, moved the second reading of the Bill. He said: This is a Bill which has come to us from the other House, and the member for East Perth (Mr. James) had undertaken the charge of it; but in his absence, and according to a request made to me by the member in charge of the Bill in the other House, I now move that the Bill be read a second time. This appears to me to be a good Bill, and I hope the House will allow it to go into Committee for consideration of the clauses. The Bill provides for the repeal of section 41 of the Bankruptcy Act, 1892. Under that section, a person might assign his estate, but that action did not become valid until 12 months after the assignment; so that any

person occupying the position of trustee would be responsible for all the money passing through his hands from the date of assignment till the end of the 12 months, if in the *interim* any creditor should take out a receiving order and make the estate insolvent. An instance occurred only a few days ago, showing the necessity for such an amendment as this Bill proposes. A storekeeper named Baden assigned his estate in August, 1897, for the benefit of his creditors, and an accountant named Drummond was appointed trustee of the estate. At the request of the creditors, he expended some £15 in protecting some land belonging to the assignor, and he incurred expenses in disposing of the estate. Although he had the estate in charge for eight months, during which time he received £124 13s. 5d. and expended £60 10s. 2d., including £20 for cartage and £15 for the protection of land, yet the assignor became insolvent eight months afterwards, and the Official Receiver in Bankruptcy applied for an order calling on the trustee to refund all the money he had received during the eight months of his trusteeship. The trustee had not disbursed any money amongst the creditors, and he immediately handed to the Official Receiver £64 3s. 3d. in money; but the Official Receiver demanded all the moneys which the trustee had received during the 8 months he had been in charge of the estate, or the gross value of the estate; and the Chief Justice, who heard the application, stated that it was compulsory that he should make the order as applied for by the Official Receiver. In giving his decision the Chief Justice said:—

Although, at first sight, it might seem a rather hard case that the assignee should have to pay back money which he had paid away, strictly in accordance with his duties as trustee under the deed of assignment, yet he (the Chief Justice) was constrained to hold that the assignee must do so, on the authority of cases referred to by the Official Receiver. He ordered that the assignee should pay back to the Official Receiver £60 10s. 2d. which he had paid away.

In reply to an application for costs against the assignee, the Chief Justice said it was a hard case, and he would not grant costs. Some days afterwards a writ of attachment was issued against the trustee, and he had to show cause why he should not be committed to gaol for not paying over

the money as ordered. The effect of this Bill, as an amendment of the existing Act, will be that an assignment will have to be duly assented to before it becomes valid; and although the court may upset it at any time, yet it will, in the meantime, protect the trustee. The Bill provides, in the first place, that an advertisement shall be published in the *Government Gazette*, and in a newspaper circulating in the district where the person intending to assign his estate resides or carries on business; a meeting of creditors has to be called and a chairman appointed; and all this has to be done under the cognisance of the court. Any person may apply for a stay of proceedings, and no assignment will be good unless agreed to by a majority of creditors amounting to three-fourths in value and one-half in number. But even this does not make it binding; for, before the assignment will hold good, it must be confirmed by a special resolution passed by five-sixths of the creditors in value. I believe the Attorney General approves of the Bill, and I know the member for East Perth (Mr. James) intends to support it in Committee. It has had the approval of the Chambers of Commerce in Perth, Fremantle, Bunbury, and Geraldton; and I know the business people have had meetings to consider the Bill, and have decided to support it as a desirable amendment of the bankruptcy law. I therefore hope the House will allow the Bill to be read a second time, and to go into Committee.

Mr. KENNY (North Murchison): I have recently been engaged in a position that has enabled me to form a good idea of the working of the present Bankruptcy Act. I have looked through the Bill, and I can only say that, without pretending to give a legal opinion, if this Bill is not an improvement on the existing Act, it will be had indeed. I have listened to evidence by some of the leading commercial men of the city during the past week, and they appear to be unanimously of opinion that the present Act is too cumbersome, that the regulations for its working are altogether out of joint, and that the administration is worse than the Act itself. Commercial men representing every section of business are unanimous in condemnation of the present Act. The Bill has met with the approval of various

Chambers of Commerce throughout the colony; and, in referring to this Bill on several occasions during the past week, commercial men giving evidence have cited the Bill as a great improvement on the present Act, and as an amendment which they feel will at least give to creditors a voice in the management of bankrupt estates. I have no desire to go into the history of the evils that have been worked by the present Act, but this I do say, that a return was laid on the table of this House some months ago, at my request, which will give a good idea of how the Act has been administered. One estate there mentioned was estimated to realise £10,000, and it realised only 10 per cent. of that amount, the estate being sold for £1,000, and the cost of realising was about £160, which came out of the £1,000. The balance of the £1,000 is lying somewhere, and has not yet reached the creditors in the form of a small dividend. Nobody appears to know exactly what has become of it. There are several merchants, both in this city and in Fremantle, who have informed us, during the past week, that for the last three years they have given up the idea of ever receiving anything in the way of a dividend from any estate in bankruptcy, however well it might show in the estimated statement of affairs laid before the first meeting of creditors. To quote instances, an estate was estimated to realise £1,000, and it cost £160 to realise that estate; another estate, estimated to realise £180, cost for realisation exactly the same sum as did the other estate which was estimated to realise £1,000. There were so many anomalies of this sort in the return that they only show how ridiculous, and worse than ridiculous, is the present bankruptcy law. Not only is it ridiculous in that respect, but its administration is worse than a failure. For three or four years there has scarcely been a dividend declared in respect of the hundreds of estates which have passed through the portals of the Bankruptcy Court; and, what is more, the creditors of those various estates have failed to get any account whatever of what has become of the moneys realised. Each and every one of those witnesses, as they came before us, was asked such questions as these:—"What became of the estate?" "Have you any returns, any statement of

affairs, after the estate reached the Official Receiver's hands?" And the answer invariably was "No." Creditors make inquiries, but get no information whatever. All they know is that they are creditors for some hundreds of pounds, and that they have never received one farthing, or the slightest information of what has become of the estate that was estimated to pay from 10s. to 20s. in the pound. The very fact that the Act is capable of being converted into such a weapon of destruction against unfortunate creditors, and against the commercial world generally, warrants the introduction of an amending Bill. I do not pose as an amateur lawyer, nor shall I pretend to give a legal opinion on the present Bill; but this I do say, that it will be bad indeed if it is not superior to our present Act, and I have much pleasure in supporting the second reading of the Bill.

MR. HIGHAM (Fremantle): I rise to support the second reading, and hope it will be favourably received by the House, and will reach Committee stage as early as possible. This Bill is the outcome of two years of hard work. It has had the benefit of the attention of some of the best legal talent practising in commercial cases in this colony. It has run the gauntlet of many chambers of commerce, and more especially those of Perth and Fremantle. It has been dealt with by Select Committees, by public accountants, and by men well versed in the administration of estates in liquidation and in bankruptcy. The great feature of this Bill is the facility which it will afford in liquidating estates under composition, or assignment without bankruptcy. I think anyone who reads the clauses dealing with this point will find that every possible safeguard is provided to protect the creditors, and to enable assets to be realised promptly and economically, and in the best interests of all concerned, without undue hardship to the poor unfortunate whose estate is under the operation of the Act. I hope everything possible will be done to facilitate the passage of this Bill, because we must realise that we are now approaching the end of the session, and I hope the Bill will not be withdrawn at the last moment, as it was last year; because the commercial community have a real desire to see it

come into operation, and to realise the benefits that are bound to accrue from its passage.

THE ATTORNEY GENERAL (Hon. R. W. Pennefather): This Bill is evidently framed with the object of enabling creditors, by deed of assignment, to arrange with the debtor to prevent the estate from going into the hands of the Bankruptcy Court and of its officers. So long as the interests of the smaller creditors are safeguarded, I do not perceive what possible objection can be raised to creditors mutually arranging with their debtor, to permit of the liquidation of his liabilities; and, on looking through the provisions of the Bill, I see that much caution has been observed in the very essential matter of safeguarding the interests of the weak creditor against the stronger, and sometimes very rapacious, creditors. Then, in the next place, the object of the Bill is, I take it, to protect those persons who act as trustees, and who, in the administration of the duties imposed upon them, do nothing that is either contrary to law or not in good faith. But it appears that, under the present bankruptcy law, there can be no doubt there is one defect, which has operated most disastrously towards many unfortunate trustees, who should not have been subjected, I think, to the rigours of the law as embodied in the existing Act. One instance in particular, that to which the hon. member (Mr. Gregory) who moved the second reading alluded, is very strong indeed; for under the present Act it is provided that if a debtor, within 12 months after he has executed the deed of assignment, becomes bankrupt, the whole of his estate immediately vests in the Official Receiver; and the Official Receiver can then demand every penny that the trustee has received for the benefit of the insolvent estate, no matter in what particular respect money may have been expended, and judiciously expended too, in helping to realise the assets that have been in the hands of the trustee for the benefit of the creditors. That certainly seems a monstrous thing; and, if I may be permitted, I would suggest that, when this Bill is in Committee, we ought to do something in the way of protecting those trustees who, during the last 12 or 15 months, have left themselves

open to this unfortunate provision. I do not think it was ever contemplated by the Legislature that the Act should work such a gross injustice as has been brought under our notice; and I think that a clause might be inserted in Committee, making the Bill retrospective in its effect, so far as the execution of these deeds of assignment are concerned, so that when a trustee has administered an estate in all other respects legally, and has done nothing to interfere with the assets of the creditors, but has merely paid proper and legitimate expenses, disbursed in order to obtain the assets, such trustee shall not be called upon, although the period of 12 months has not elapsed, to make good those moneys to the insolvent estate. I do not wish to say anything further on this subject at present; but I think this is a measure which commends itself to the wisdom and intelligence of the House, and one which will work much good for the commercial community generally.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Date of coming into operation:

MR. WALTER JAMES (in charge of the Bill): The clause provided that the Bill should come into operation on the 1st of November, 1898. This date was somewhat too early; and he moved, as an amendment, that the word "November" be struck out, and "December" inserted in lieu thereof.

Put and passed, and the clause as amended agreed to.

Clauses 3 and 4—agreed to.

Clause 5—Stay of proceedings:

MR. JAMES: The clause provided that, after a notice of meeting had been posted, as provided in clause 4, the debtor or any creditor could apply, *ex parte*, to have the proceedings stayed. That power ought not to rest with the debtor, but with the creditors. If the debtor had the power to do this, it would be competent for him, after posting the notice, to make an *ex parte* application to a judge, and then, *prima facie*, he would be entitled to stay the hands of the creditors for 14 days. To make the point clear, he moved, as an

amendment, that the words "the debtor or" in line 3 be struck out.

Put and passed.

MR. JAMES moved, as a further amendment, that after the word "creditor," in line 3, the words "whose debt is not less than £30" be inserted. It was not desirable to provide that a creditor of a nominal amount should have a right to obtain an order, possibly in collusion with the debtor, to interfere with the other creditors' rights. The amendment would tend to insure the *bona fides* of the creditor making the application for a stay of proceedings.

Put and passed, and the clause as amended agreed to.

Clause 6—Provisions as to meeting:

HON. S. BURT asked the member in charge of the Bill, with regard to sub-clause 6—"attorney or proxy may vote"—whether he had considered the question of voting by proxy. It might be that, by some subsequent provision of the Bill, the rules under the present Bankruptcy Act would apply under this Bill; but in the past the practice of giving proxies indiscriminately had been found most objectionable. Nor would hon. members desire to revert to the state of things that existed before the present Bankruptcy Act, under an Act which allowed estates to be wound up by the creditors themselves, without the interposition of the officials. The existing Act provided for official administration; whereas this Bill reverted, to some extent, to the old system. The one great blot on the old system was that the debtor, as a rule, went round to creditors, who were generally, in the early stages of bankruptcy, inclined to deal with him easily, and be collected proxies, which were all made in the name of some friend of the debtor, which enabled the latter to do anything he chose at the meeting. A proxy form was generally sent by post to each creditor, with the name of some proxy filled in, the person named being one who would take care to look after the interests of the debtor at the meeting. By this means a man had been known to get a composition of 2d. or 3d. in the £ at one meeting, and obtain his discharge from enormous liabilities. There was a real danger in this state of things.

MR. JAMES: Clause 56 gave power to make rules. It was desirable that the

question of proxies should be considered. He moved, as an amendment, that after the word "writing," in line 3, the words "in the prescribed form" be inserted.

MR. SOLOMON: There was a great deal in what had been stated by the member for the Ashburton (Hon. S. Burt). At the same time, it would be taking certain powers away from the creditor to deprive him of the right to appoint a proxy.

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

Clauses 7 to 19, inclusive—agreed to.

Clause 20—Creditors to have the same rights as in insolvency:

HON. S. BURT: In lines 8 and 9 there was a reference to "this part of this Act." The Bill was not drawn in parts. He moved, as amendments, that in line 8, after "this," the words "part of this" be struck out; also that in line 9, after "this," the words "part of this" be struck out.

Put and passed, and the clause as amended agreed to.

Clauses 21 to 37, inclusive—agreed to.

Clause 38—Court of jurisdiction:

HON. S. BURT moved that the clause be struck out. This clause referred to proceedings being taken in several courts; but, as a fact, the Bill contemplated only one court, namely, the Court of Bankruptcy, as was further shown by the interpretation clause.

Amendment put and passed, and the clause struck out.

Clauses 39 to 50, inclusive—agreed to.

Clause 51—Persons to practise:

MR. JAMES moved that the clause be struck out, as unnecessary. The existing Act already provided what persons were entitled to practise.

Amendment put and passed, and the clause struck out.

Clause 52—agreed to.

Clause 53—Application of Act:

MR. JAMES moved that the clause be struck out, as the persons mentioned therein were already dealt with under the principal Act.

Amendment put and passed, and the clause struck out.

Clauses 54 and 55—agreed to.

Clause 56—Amendment 55 Victoria, No. 34, S. 46:

MR. JAMES: Bills of sale, referred to in this clause, could be dealt with in

the Bills of Sale Bill before the House. It would be better to leave the clause in the Bill; but the sub-clauses referring to rules had nothing to do with bills of sale, and ought to be placed in a separate clause.

HON. S. BURT: The Clerk could do that.

Clause put and passed.

Clauses 57 and 58—agreed to.

Schedules—agreed to.

Title—agreed to.

Bill reported with amendments.

#### BILLS OF SALE BILL.

On the motion of MR. WALTER JAMES, the House resolved into Committee to consider this Bill.

#### IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Date of coming into operation:

MR. JAMES moved, as an amendment, that the word "January," in line 2, be struck out, and "March" inserted in lieu thereof. This would bring the Bill into operation on the 1st March, 1899.

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

Clauses 3 to 7, inclusive—agreed to.

Clause 8—Attestation and registration of bill of sale:

HON. S. BURT: Sub-clauses 4 and 5 asserted a new principle, being the obligation to register, or rather to notify and publish, the desire of the person in each case to give a bill of sale. Sub-clause 4 said: "At the same time as the bill of sale is presented to the registrar, a written notice in the form or to the effect set forth in the second schedule hereto shall be filed, and the registrar shall forthwith endorse thereon the date of such filing." Clause 12 provided that "the registrar shall, immediately upon the filing of the notice in section 8 mentioned, cause a copy thereof to be inserted once in the *Government Gazette* and once in a daily paper published in Perth; and any creditor of the grantor or any one of the grantors may, within fourteen days from the filing of such notice, lodge with the registrar a caveat." In other words, a creditor might object to the registration of the bill of sale. Clause 12 provided that the grantor might apply to a

judge of the Supreme Court for an order directing the removal of such caveat; therefore no bill of sale could be given unless this procedure was gone through. It had been represented to him, by some commercial men, that this was rather an onerous provision, and one quite new to this country, though he believed it obtained in Victoria.

THE ATTORNEY GENERAL: Clause 12 did not.

HON. S. BURT: At any rate, he knew it was somewhat objected to, and he thought it well to draw attention to this. The form of the second schedule showed that the consideration and so forth had to be set out, and a description of the property given. No one could give a bill of sale, unless the intention to do so was first advertised in a daily paper.

THE ATTORNEY GENERAL: That was by clause 12.

HON. S. BURT: Clause 8 referred to the notice which was alluded to in clause 12. We should strike out sub-clauses 4 and 5 of clause 8.

THE ATTORNEY GENERAL: The two sub-clauses referred only to the indorsements made on the notices when they were lodged at the Registrar General's office.

HON. S. BURT: Those sub-clauses were the groundwork of the provisions of clause 12. If they were of use without clause 12, he would say no more about them.

THE ATTORNEY GENERAL: The two sub-clauses, as he had stated, referred only to the indorsements made upon the notices when lodged in the Registrar General's office. They were filed, and any creditor could go to the office, pay the fee, and inspect them: and within fourteen days a caveat could be lodged. As to clause 12, he agreed with the observations of the hon. member, that the provision it contained was unnecessary, and would prevent people from giving bills of sale. Sub-clauses 4 and 5 of clause 8 did not affect it.

HON. S. BURT: The last four lines of sub-clause 5 certainly affected it, for they read: "Unless within the meantime a caveat has been lodged as hereinafter mentioned, in which case such registration shall be made forthwith upon the removal or withdrawal of such caveat."

He moved, as an amendment, that these words be struck out.

MR. JAMES: Sub-clauses 4 and 5 simply provided that, on presenting a bill of sale for registration, notice should be given of intention to have it registered in fourteen days. During those fourteen days the bill of sale could not be registered, but at the expiration of the fourteen days it could be registered, unless in the meantime a caveat had been lodged.

HON. S. BURR: It must be registered within seven days, in Perth.

MR. JAMES: It must be presented for registration within seven days. Clause 12 provided that there should be certain advertisements. That was objected to by a number of members; so he proposed to strike it out, thus eliminating any question of advertising. As to the fourteen days, the Chamber of Commerce would be satisfied with that period.

HON. S. BURT: Clause 12 was one which he did not like, even with the amendment proposed by the member for East Perth (Mr. James). It was hard to discuss the sub-clauses of clause 8 without referring to clause 12, because a principle was involved. If we left sub-clause 5 as it stood, we should, in spirit, be approving of clause 12, or some portion of it. It would be seen by clause 12 that, after presentation had been made in the office for registration, nothing could be done for fourteen days. A creditor might find a bill of sale there, and might object and lodge a caveat, and the grantor would then have to apply to a judge of the Supreme Court for the removal of the caveat; "and if, on the hearing of such application, it shall appear that the caveator is a creditor, the judge may direct the bill of sale not to be registered until such creditor has been satisfied, or may make such order as to costs or otherwise as to him may seem just." That was nice for the particular creditor; but what about the other creditors? Under the present law, a bill of sale must run for six months, and that gave ample opportunity for finding out whether a bill of sale had been given, and time to attack it. If a creditor found out there was a bill of sale, he would, if the suggested proposal were carried out, slip in before a judge, get an order, and he would be satisfied. That would be a case of black-

mail. If the fact were notified, it would be preferable to the present proposal. The great objection to advertising was that bills of sale would not be given at all, if advertised. Under the bankruptcy law, there was sufficient protection to creditors. If a man mortgaged his chattels for a *bona fide* advance of money, and if at the time the creditors did not object to it, he could carry on.

MR. LEAKE: A man might lend money on the execution of a bill of sale, and then lose it on the caveat.

HON. S. BURT: A person would not get any now, because a bill of sale might not go through. Things would "hang fire" until the bill of sale did get through.

MR. JAMES: At present the law was that, if a bill of sale was given without consideration, and a person was made bankrupt within six months, that bill of sale was of no avail; but it did not deal with cases where a bill of sale was given for a *bona fide* consideration. A creditor claimed the right of saying, "I want to have my money paid, and I do not want you to go on incurring fresh obligations; but if you are going to pay me off, there is no objection to provide for it." The man who was going to lend money might say, "I will pay you." And what could be the objection to that? At present, men could get bills of sale. A man got into financial difficulties, and wanted to realise; he obtained money, and very often creditors did not get a penny of that.

MR. LEAKE: Was not the hon. member providing an extraordinary remedy?

MR. JAMES: In clause 12, when reached, the reference to advertisements could be struck out. If a man was going to borrow money at all, he was going to borrow it honestly or otherwise. If he were borrowing with the honest intention of paying his debts, what objection could there be to giving the creditor the right to insist that the money should be used for that purpose?

HON. H. W. VENN: The money might be borrowed to carry on his business, and not to pay his debts.

MR. JAMES: That was precisely what the creditors had a right to object to. If the debtor had arrived at such a stage that he had to borrow money to carry on his business, and the creditors, having no confidence in him, insisted on their debts

being paid, then the man ought not to be allowed to carry on business. If the creditors knew and confided in the debtor, they would take no action; but where they had suspicions, they would exercise their rights. This proviso had been in force in Victoria for some time.

**THE ATTORNEY GENERAL:** For about 15 years.

**MR. JAMES:** It had worked satisfactorily there, and the Chamber of Commerce in Perth had expressed a strong opinion as to the necessity for a similar provision in this Bill.

**THE ATTORNEY GENERAL:** Sir James Service, one of the leading commercial men in Victoria, had the credit of introducing this proviso into that colony, with the object of checkmating people who were in the habit of giving clandestine bills of sale behind the backs of creditors, so that the unfortunate creditor found the security, which he had hoped was unpledged, mortgaged "up to the eyes" under a bill of sale. It was therefore enacted that when a trader wished to raise money by hypothecating his property, he must give his creditors a chance of saying whether they were willing he should do so. If a man were to be allowed to give a bill of sale, he ought to give notice of his intention; and to whom was such notice more properly due than to his creditors? If they objected—and they had every right to object if they found that the debtor was raising money, not to pay them, but for some other purpose—they had a perfect right to steer in and prevent it.

**MR. ILLINGWORTH:** The object might be to bet on the "Melbourne Cup."

**THE ATTORNEY GENERAL:** That had been frequently done.

**HON. S. BURT:** Such cases could be provided for under the Police Act Amendment Bill.

**THE ATTORNEY GENERAL:** One Bill at a time was sufficient. If sub-clauses 4 and 5 were not passed, the Bill might as well be withdrawn. The object of the measure was that notice should be given of bills of sale; and if creditors were not notified, that object would be defeated. What could be more reasonable than that the creditor should have the right to lodge a caveat as soon as he heard of the intention to give a bill of sale? That

meant that the debtor must either liquidate his liability, or satisfy the creditor of the honesty of his intentions.

**HON. S. BURT:** What became of the other creditors?

**THE ATTORNEY GENERAL:** If they liked to sleep on their rights, they must put up with the consequences; but an active man would find out what the debtor meant by raising money. No reasonable man would oppose the raising of money by the debtor for legitimate purposes.

**MR. LEAKE:** In considering clauses 8 and 12, we must not lose sight of clause 26, which made a bill of sale fraudulent and void against certain persons, and, amongst other things, unless the true consideration was stated. It was easy to see how the notice provided for by clause 12 might affect sub-clause 2 of clause 6, which provided for an adequate statement of the true consideration.

**MR. JAMES:** That was the law in Victoria.

**MR. LEAKE:** The cases governing bills of sale in this colony were very exact, and particularly with regard to the statement of the consideration; and such a deed could be easily attacked and upset unless the consideration were truly stated. If the consideration were a present advance, the money might pass in the execution of the deed, which, however, would not be a valid security until it had passed through the ordeal of the caveat; so that if the grantee, the man lending the money, parted with say £100, he might find that an attempt to register his security would be defeated because a caveat had been lodged.

**THE ATTORNEY GENERAL:** But the Bill provided not only for the execution of the deed, but its due registration.

**MR. LEAKE:** The consideration must be truly stated at the time of execution, not at the time of registration; consequently, if the consideration were stated as a present advance, it implied that the money was handed over forthwith. But the deed would not be a valid security until after it had run the gauntlet of the caveats, namely, for fourteen days. If, therefore, the borrower was in difficulties, the lender who had parted with his money would not get it back, if he found his security blocked by a caveat. The matter must then be brought before a judge,

who would decide that the security was worthless until the debt of the caveator had been paid. Again, the matter might be further hung up; for in clause 12, sub-clause 5, there was a special definition of the word "creditor." Anybody could constitute himself a creditor for the purposes of this Bill, for the term meant a person to whom a debt might be due or to accrue due; and thus the whole question might be hung up pending the settlement of the dispute between the borrower and the third party, who might be a total stranger to the man lending the money.

THE ATTORNEY GENERAL: The words "accrue due" referred to a case in which a man had given a promissory note which had not matured.

MR. LEAKE: That did not appear.

MR. JAMES: Suppose it meant a pending liability, why should the man avoid payment of it?

MR. LEAKE: That was well enough; but what about the poor man who had lent his hard cash on the assumption that he was getting a good and valid security?

MR. JAMES: When the Bill once came into force, if a man were so foolish as to lend money on a bill of sale before it was registered, he deserved to lose.

MR. LEAKE: But if he did not lend the money, the bill of sale would be invalid.

MR. JAMES: No; the consideration spoke from the date of the document, and not from the date of registration. Under the existing law, a bill of sale could be given, say as security for advances made on a sheep station, which might not be registered for three or four months after the date.

MR. LEAKE: But this Bill practically prohibited registration in the event of a caveat being lodged. Any man who fancied himself a creditor could, by objecting to registration, raise an issue which a judge might direct to be tried. Then the man who had advanced his £100 on the date of the execution of the deed stood a chance of losing it.

MR. JAMES: Would he advance £100 in such circumstances?

MR. LEAKE: The hon. member evidently meant that the lender should protect himself by making prior inquiries; but that simply meant that in future no

person would advance money on a bill of sale.

MR. JAMES: Why?

MR. LEAKE: Because he would not be secured until the deed had stood the test of the caveat.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse): More than that; a man intending to advance money on a bill of sale would have to wait a fortnight before he could be sure that the security would be of any service to him.

MR. LEAKE said he was inclined to agree with the member for the Ashburton (Hon. S. Burt), that sub-clauses 4 and 5 of clause 8 ought to be struck out, and that the consequential amendment of clause 12 should follow. These enactments were by no means essential to the Bill, nor would their rejection be fatal.

HON. S. BURT: The measure introduced last year, and which was passed by the Assembly, did not contain this principle, which was therefore not essential to the Bill, but had been subsequently interpolated. Therefore it should be as easy to strike it out now as it had been to insert it. The Attorney General had spoken of creditors who suddenly became aware of a clandestine bill of sale; but they need not be long in ignorance, for, in addition to registration, protection was afforded by trade journals. Moreover, this Bill would give notice to the creditor only that the bill of sale was lying at the office awaiting presentation, which notice would be of little use to the creditor, if he had not previously discovered that the document existed. The effect of the provision would be to stop at once anything like advances to debtors on bills of sale, because the bills of sale would have to state the true consideration, and the advances must be made at the time the deed was executed.

MR. JAMES: The hon. member did not contend that, surely.

HON. S. BURT: Present advances must be truly expressed, and no man would make a present advance on security of a bill of sale, because he would have to part with his money fourteen days before he got his security; for as the security could not be made effectual for fourteen days after the money had been advanced, therefore the effect of the provision would be to stop advances on bills

of sale. Take the instance of a large company lending money on live stock; one small creditor could come in and stop a large advance to a stock-owner. Or a creditor might be a friend of the debtor, and put in a caveat, and the other creditors would not think this one creditor would be paid off; but the debtor might make some arrangement with this one particular creditor on the twelfth day, and then the bill of sale would be safe.

MR. LEAKE: In trying to protect the interests of two individuals whose interests were adverse, the old creditor and the new creditor, there would be one advantage about this clause, that it would lead to a splendid crop of litigation.

MR. JAMES: Was it advisable to make provisions under which no bill of sale would become effective until fourteen days after the advance had been made? It seemed to him that if a man wanted to obtain an advance, the person lending the money would say he was not going to give up his money until the mortgage was registered, and until the title was completely protected. It could be recited in the deed that the money would not be paid over until the deed was registered, and that would be a valid consideration.

MR. WILSON: It was desirable to protect the commercial community by having notices of bills of sale given, if that could be legally done. There appeared to be something in the point made by the member for the Ashburton, that the consideration would have to be given on the execution of the deed. He (Mr. Wilson) suggested that the money could be placed in the hand of a third party. The contention of the members for the Ashburton and Albany could be overcome by providing that the money could be obtained at a later date than when the deed was executed. If that were done, the provision would work well.

MR. JAMES: That could be provided for under clause 32.

HON. S. BURT: It often happened that large timber companies had to give bills of sale when they wanted capital for development; but a small creditor of that company could come in with a

caveat, and stop the registration of the bill of sale until he was paid.

MR. WILSON: The reply to that was that if a timber company were borrowing a large sum of money, they would be prepared to pay off the smaller creditors, if those creditors so desired. This provision would be a protection against the dishonest debtor, or the man who mortgaged his goods and then cleared out with the money he had raised. This was what business men had to contend with over and over again.

THE ATTORNEY GENERAL: A similar Act had worked remarkably well in Victoria in the direction of commercial honesty. The very fact that people had to give notice made them careful about raising further money, without satisfying their creditors that it was going to be devoted to legitimate purposes.

MR. LEAKE: How did the clause apply when a creditor came with a caveat and his claim was a disputed one?

THE ATTORNEY GENERAL: The judge would settle that, under the clause.

MR. LEAKE: But the matter might be hung up for three or four months.

THE ATTORNEY GENERAL: If it were only a disputed account, the judge would dismiss the caveat with costs. Unless there was a clear debt due, the caveat would be dismissed against the so-called creditor.

MR. JAMES: To meet the objection which had been suggested, he would, on recommendation, move an amendment in clause 5, which defined "contemporaneous advance," providing that the term should be within seven or fourteen days of the registration.

MR. LEAKE: Care would have to be taken that the door was not opened to fraud. He agreed generally with the member in charge of the Bill; but he did not agree that all these persons were protected by the Bill as drafted.

HON. S. BURT moved that progress be reported, in order that the suggested amendment might be considered.

Motion put and passed.

Progress reported, and leave given to sit again.

WINES, BEER, AND SPIRIT SALE  
AMENDMENT BILL.

## LEGISLATIVE COUNCIL'S AMENDMENTS.

The Legislative Council having amended the Bill by adding five new clauses, the same were now considered.

## IN COMMITTEE.

Amendment No. 1—Add new clause, to stand as No. 3, Sale of liquor on Sundays:

Mr. LOCKE (in charge of the Bill) moved that the Council's amendment be agreed to.

Mr. ILLINGWORTH expressed the hope that the House would not entertain the new clauses which had been inserted in another place. The amending Bill was introduced into the Legislative Assembly by the member for Sussex (Mr. Locke) in good faith, and was accepted in good faith, simply to cure one defect in the Act. It was never intended to review the Licensing Act, or hon. members would have taken the opportunity, when the Bill was before this House, to make necessary amendments. Yet advantage had been taken of this amending Bill to practically revise in another place some of the principal provisions of the existing Act; and the Assembly were thus placed in the position of not being able to make amendments they desired. It was not proper that amendments of the principal Act should be made by one House only, without the other House having the same opportunity of dealing with the whole subject. The Assembly ought to have a voice in dealing with such questions, whereas now they could only approve or disapprove; therefore, he hoped this House would disapprove of the whole of the Council's amendments. The Assembly had been practically trapped into dealing with the Licensing Act, without having a voice in the discussion of the questions raised.

THE ATTORNEY GENERAL (Hon. R. W. Pennefather) said he thoroughly endorsed the remarks of the member for Central Murchison (Mr. Illingworth). It would be within the recollection of every member that this Bill was introduced for one purpose, and one purpose only, namely, to enable widows to hold hotel licenses, and it had been then pointed out that, if the provisions were to be extended, the member for Sussex (Mr. Locke) might

as well withdraw the Bill at once. Under no circumstances would this House tolerate, in a small amending Bill of this nature, a series of amendments of an alarming character, practically repealing the principal Act in important particulars. The new clauses added to the Bill by the Legislative Council were highly debatable, and the Assembly ought to have an opportunity of discussing them. At any rate, this was not the proper occasion on which such proposals should be brought forward.

Mr. LEAKE: The Committee would no doubt like to have an opinion on the question of Sunday trading from the member for Sussex (Mr. Locke) who was in charge of the Bill. This was an important clause, and practically the introduction of a new principle.

Mr. MORAN: The new clause had his hearty approval, though he did not see much chance of carrying it through the Assembly to-night. There was no desire to push these new clauses through the House. Members had only to say "aye" or "no" to them.

Mr. LYALL HALL: There was no chance of passing this amendment to-night. He agreed with the amendment, except that it did not go far enough. The opening of hotels during certain hours on Sundays met with his approval; for he did not believe in a law under which the man who could afford to belong to a club could get his liquor at any hour, whilst the working man earning his daily wage could not do so.

A MEMBER: He was better off without it.

Mr. HALL: Perhaps the man himself was the best judge of that. The amendment only provided for one hour, between 1 and 2 o'clock in the day, and one hour between 9 and 10 in the evening, for hotels to be open on Sunday. That was practically no good. While he did not see any chance of the new clause being carried, he saw less chance of getting anything better.

Mr. KENNY said he was in favour of reverting to the good old days of yore, when hotels were open from 1 to 3 on Sunday: and thought it might appear strange now, in face of the fact that one could scarcely go down even the main street of the city without meeting drunken men when hotels were closed all Sunday,

yet in the old days drunkenness on Sunday was decidedly the exception. The severity of the law in those days had a good deal to do with keeping men sober, for any man found drunk on Sunday was sent to prison, and there was no fine. The same penalty might be tried now. But it was not possible to legislate against the great Australian thirst, which was a national weakness that we could not prevent; therefore we ought to act honestly, and allow publicans to gratify that weakness on Sunday as well as on other days. If a proper Bill were brought in to amend the Licensing Act, he would support it.

MR. WILSON: If the remedy just mentioned was necessary in the good old days, it was needed now without the opening of public-houses on Sunday. He strongly objected to public-houses being opened on Sunday at any time. The subject was one that had been discussed in the old country for years, and it would never be settled. There would always be a large party against the opening of public-houses on Sundays, and always a very large party in favour of it. To discuss this question, we ought to have sufficient time to thresh it out thoroughly, and not deal with it in the form of these amendments.

MR. MONGER: In order to obtain a full expression of the sentiments of the House, the attendance not being large, he moved that progress be reported.

Put and negatived.

MR. QUINLAN: The proposal contained in the first amendment was one to which he could not agree. He did not believe in hotels being opened on Sunday. Any publican who could not obtain a living during six days of the week had better give up the business, and try some other job. Although Sunday trading was being carried on, and always would be more or less, still the fact that hotels were closed prevented the trade being conducted in the same manner as it would be if the doors were open to the general public. His experience was that the better class of publicans did not desire Sunday opening. They and their employees wanted a rest; and, if this amendment were adopted, we should be taking a retrograde step. To open hotels for one hour in the afternoon, and one hour in the evening of Sunday, would be ridiculous, inasmuch as

during that hour the place would be filled with people, and they would scarcely be there before they would have to be turned out again. People would break the law then more readily than at the present time. He did not see any grave crime in people going into a hotel, having a drink, and leaving quietly; but, if we gave *carte blanche*, Sunday drinking would, he was afraid, be like every other day of the week. There were many defects in the present Licensing Act, and it would be well if something could be done to relieve the hotelkeeper, so far as the onus of proof was concerned in the case of a lodger or traveller, who should be made to prove his *bona fides*, and be subject to a penalty in the event of his failing to do so. If it were desired to amend the licensing law, we should refrain from doing so in this indirect manner, and deal with it thoroughly on another occasion.

MR. HUBBLE: The Council's amendment met with his approval. Taking into consideration the amount of traffic in liquor carried on in an underhand way throughout the colony, it would be far better to legalise one or two hours on Sunday, and make it compulsory for publicans to have their establishments closed for the rest of the day. There would be less drunkenness if the amendment were agreed to; but great firmness must be exercised in closing the hotels during prohibited hours.

MR. WOOD opposed the Council's amendment, as an altogether retrograde movement. He recollected the time when hotels were opened on Sundays, and there were good reasons for the abolition of the practice. No cause could be shown why we should revert to it. A man who visited hotels every night in the week would be enabled, by Sunday opening, to continue his drinking for seven days a week, all the year round; whereas now he had a chance, on Sunday, of pulling himself together. It was monstrous to legislate to meet the cases of men who were continually breaking the law. The bar attendants also ought to have their Sundays, for this amendment meant seven days a week for them. Everyone was entitled to the Sunday rest. A report from Fremantle showed that 3,000 people entered public-houses in that town on one Sunday; and though this was

probably an exaggerated statement, yet it showed that nearly half the adult male population of that town broke the law on Sunday.

MR. LYALL HALL: If correct, it showed the necessity for opening public-houses.

MR. WOOD: No; it showed the necessity for a stricter administration of the Act. How much drinking was done in clubs? Very little. If clubs were desirable, why should not working men have their clubs?

MR. HALL: They could not afford a club.

MR. WOOD: Nonsense. By subscribing to a club, the workman could get better and cheaper liquor. With regard to the Act generally, it could be dealt with only by a Royal Commission, consisting of members of Parliament and persons interested in the liquor trade, who would go into the question thoroughly, and prepare a new Bill. He would vote against the Council's amendment.

MR. LYALL HALL: It was imagined that, if the Council's amendment were carried, the front doors of hotels would be opened on Sundays. Nothing of the kind was intended. The side entrance only would be used on that day.

MR. ILLINGWORTH: No, no.

MR. LYALL HALL: And, if that were so, wherein lay the difference between a hotel and a club being opened on Sunday? The front doors of the West Australian and Weld Clubs were invariably opened on Sundays. Wherein lay the difference between a member paying sixpence for a drink at these clubs and his going in through the side entrance of a hotel? There was no difference, but merely a distinction; namely, that the club member could afford to pay the three or four guineas subscription, while the ordinary man could not. To be consistent, hon. members who opposed the amendment should insist on closing all clubs on Sundays. There was as much reason for one course as the other. Hon. members spoke of the necessity of preventing weak-minded people from entering hotels, but the same remark would apply to clubs. Why should a difference be made between clubs and hotels?

MR. WILSON: The sale of liquor in a club was restricted to its members. A club was like a man's own home.

MR. LYALL HALL: Of course it was restricted to those who were in a better financial position than their fellow-men.

MR. LEAKE: According to the hon. member, a person should not give to a visitor a drink on a Sunday in his private house.

MR. LYALL HALL: That was a different thing altogether. One was a public house and the other a private house. Publicans should not be compelled to serve people as they did now, surreptitiously. When a man went to a hotel on a Sunday, the question was put to him: "Are you a *bona fide* traveller?" And the answer was in the affirmative, and the publican was then obliged to serve the man, or probably the man had a remedy against the publican. It was stated at a deputation which he (Mr Hall) introduced to the Premier, that one publican actually took the precaution to make *bona fide* travellers sign a book, and on looking over that book afterwards, the publican found that persons had signed the names of Sir John Forrest, Alex. Forrest, and Jimmy Cowan. Sunday drinking could not be put down, and it would be better to legalise it, and control it in a proper manner. There was no chance of the amendment being carried, but early next session he hoped a Bill would be introduced to deal with the matter.

Question—that the Council's amendment be agreed to—put and negatived.

No. 2—Add new clause, to stand as No. 4—Penalty for false representation as traveller:

MR. MORAN moved that the amendment be agreed to. A publican should not be at the mercy of any man who liked to make a false representation.

MR. ILLINGWORTH objected to any cardinal principle being hinged on to a measure which had been introduced to carry out a simple amendment of the law. He hoped the Committee would negative all the amendments made by the Council.

Question put and negatived.

Nos. 3, 4, and 5:

MR. ILLINGWORTH moved that these amendments be disagreed to.

Question put and passed, and the amendments disagreed to.

Resolutions reported, and report adopted.

On the motion of Mr. MORAN, a Committee, consisting of Mr. Illingworth, Mr. Locke, and the mover, drew up the following reason for disagreeing to the Council's amendments:—

Reasons.—In the opinion of this House the amendments proposed to be added to the amendment of the Wines, Beer, and Spirit Sale Act by the Legislative Council, introduce principles too vital to be dealt with in the scope of the present Amending Bill.

The Committee's reasons were adopted, and a message accordingly transmitted to the Legislative Council.

#### ADJOURNMENT.

The Houses adjourned at 11 o'clock p.m. until the next day.

## Legislative Assembly,

*Thursday, 6th October, 1898.*

Papers presented—Question: Cemetery at East Perth—Motion: Leave of Absence—Return: Expenditure on Advertisements in Newspapers—Early Closing Bill, third reading—Land Bill, third reading—Bankruptcy Act Amendment Bill, Amendment proposed on report, Speaker's Ruling—Streets Closure (Fremantle) Bill, second reading; in Committee—Goldfields Act Amendment Bill, in Committee, clause 13 to new clauses, Division; reported—Annual Estimates, in Committee of Supply, resumed and adjourned—Bills of Sale Bill, in Committee, Clause 8 further considered, progress reported—Criminal Appeal Bill, second reading, moved and adjourned—Adjournment.

THE SPEAKER took the chair at 4.30 o'clock, p.m.

PRAYERS.

#### PAPERS PRESENTED.

By the PREMIER: By-laws of Municipalities of Helena Vale (general), Fremantle (vehicular traffic), and Kalgoorlie (houses of ill-fame).

By the COMMISSIONER OF RAILWAYS: Proposals received for Construction of Coolgardie Water Scheme, as ordered. Northern Stock Route, Papers as ordered. Works Department, Dismissal of Sub-accountant, Papers as ordered.

Ordered to lie on the table.

#### QUESTION: CEMETERY AT EAST PERTH.

MR. WILSON asked the Premier whether it was the intention of the Government to close the cemetery at East Perth; and, if so, when?

THE PREMIER: (Right Hon. Sir John Forrest) replied: Yes; when the new cemetery at Karrakatta is ready and the necessary arrangements are completed.

#### MOTION: LEAVE OF ABSENCE.

On the motion of the PREMIER, further leave of absence was granted to the member for Plantagenet (Mr. Hassell), on the ground of urgent private business.

#### RETURN: EXPENDITURE ON ADVERTISEMENTS IN NEWSPAPERS.

MR. LEAKE moved: "That a return be laid on the table of the House showing how the sum of £10,524 18s. 4d., expended in advertisements by various departments, has been distributed, and what amount has been paid to the various newspapers." A return laid on the table a few days ago showed that the sum of £10,524 18s. 4d. had been expended in advertising by public departments during the past year; but in that return the names of the newspapers which received the money, or any portion of it, were not given. It would be more interesting if detailed information, similar to that given last year, were laid before the House. The comparison, too, would be of use, for we might be able to see whether the rates had gone up or decreased, or whether we were saving money or incurring extra expense. He supposed there would be no objection to giving the information.

Question put and passed.