

THE COLONIAL SECRETARY: No. Municipalities should have power to put their properties to the best possible use.

Clause put and passed.

Clause 12—Council may enter into bond for securing duty on goods in Customs warehouse:

HON. T. F. O. BRIMAGE: The clause referred practically to the bonded store at Kalgoorlie, and would enable the Kalgoorlie Council to execute any bond required for securing to the Commonwealth the payment of duty on goods lodged in the store. Hitherto such guarantee had been given by Hon. R. D. McKenzie, Mr. Keenan, member for the district in the Lower House, and another gentleman. He (Mr. Brimage) would ask the Minister to add to the clause so as to permit the council to enter into a bond for securing the payment of freight to the Commissioner of Railways on goods brought over-sea. The goods would remain in bond till duties and freights were paid. He would put the amendment on the Notice Paper.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 23 minutes past 6 o'clock, until the next Tuesday.

Legislative Assembly,

Friday, 8th December, 1905.

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THE SPEAKER took the Chair at 2:30 o'clock p.m.

PRAYERS.

PAPERS—SEE WAH & CO., REGISTRATION.

MR. J. B. HOLMAN (Murchison) gave notice that at the next sitting he would move that all papers relating to See Wah & Co. be laid on the table of the House.

THE MINISTER FOR COMMERCE AND LABOUR (Hon. J. S. Hicks): In the course of a recent debate, the Premier promised to lay these papers on the table. He (the Minister) now tabled them accordingly.

Ordered, to lie on the table.

QUESTION—UNIVERSITY ENDOWMENT LANDS.

MR. PRICE asked the Premier: 1, In what municipalities was land granted for University endowment purposes? 2, Have the trustees of the endowment fund profitably dealt with any lands so granted in the various municipalities?

THE MINISTER FOR MINES replied: 1, Subiaco, Claremont, and North Fremantle. 2, Up to the present the trustees have had little or no opportunity to profitably deal with the lands granted. The Government, however, is assured that the trustees are fully alive to their responsibilities in this direction.

HORSE-RACING, PREVALENCE.

SELECT COMMITTEE'S REPORT.

MR. A. J. WILSON brought up the report of the select committee.

Report received, read, and ordered to be printed.

BILL—PERMANENT RESERVES REDEDICATION (No. 2).

Introduced by the MINISTER FOR LANDS, and read a first time,

BILLS (7)—FIRST READING.

The following Bills, received from the Legislative Council, were read a first time, on motions by Ministers :—

Aborigines.

Statutes Compilation.

Public Education Act Amendment.

Jury Act Amendment.

Fire Brigades Act Amendment.

Electric Lighting Act Amendment.

Fertilisers and Feedingstuffs Act Amendment.

BILL—SECRET COMMISSIONS.

SECOND READING.

Debate resumed from the 6th December.

MR. T. H. BATH (Brown Hill): In regard to this measure, I do not think it necessary to speak at length on the second reading. The Government are to be congratulated on the introduction of the Bill, though I regret to say that the business community of Australia are not to be congratulated on those scandals which render such a measure necessary. At the same time, while we may congratulate the Ministry on bringing forward the measure, I fail to see any special reason for adopting the wording of the Victorian Bill. The wording of the Bill seems much involved; and members have only to compare it with Bills drafted in this State to find that our Bills are infinitely more simple and better worded than the measure under discussion.

THE MINISTER FOR COMMERCE AND LABOUR: The Premier of Victoria was asked by the Premiers' Conference to draft a measure.

MR. BATH: No matter who drafted it, I say the measure cannot, for simplicity of wording and clearness of meaning, be compared with Bills drafted locally. While perhaps we should have adopted the same spirit as that contained in the Victorian measure, we should have relied on our own officers in drafting the measure in the manner they have hitherto been accustomed to. In regard to the clauses which make it a criminal offence for any valuable consideration to be given to parent, husband, wife, or child of an agent, they should be extended farther. If it is criminal for those persons to receive secret commissions, I fail to see

that the same provision should not be extended to the uncles, cousins, and aunts of these people. They are just as likely to receive a valuable consideration by the same means as those persons mentioned in the Bill. In looking through the measure, I fail to see any provision dealing with certain conditions which appertain to business in Western Australia, which call for some action, legislative or by the community themselves. I refer to the rebates and bonuses granted in the State. We know that the associated shipping ring grant rebates to those who ship exclusively by their vessels. In the working of this agreement, the bonuses are withheld for a period extending over 12 months, and if the person ships the smallest amount of goods by any vessel except those belonging to the ring, he is prevented from securing the bonus. It is commandeered by the shipping ring, and until persons enter into a fresh agreement they fail to receive the bonus. Then we have the Sugar Refining Company, who practically control the sugar trade in this State. They grant a rebate of 10s. a ton to those people who deal exclusively with them. But if the persons are caught obtaining sugar from other sources they do not get the rebate. I have been told of instances where business firms have obtained sugar from Mauritius because they could secure it on more advantageous terms; but when this has become known to the Colonial Sugar Refining Company, that company has closed down on those firms and refused to grant the bonus. When there was competition between those firms, there was a reduction in the price of sugar; but when the Colonial Sugar Refining Company obtained the sole control of the trade the price of sugar went up far beyond that which it had bought for some time previously. We have practically the same condition of things attempted to be carried out in regard to the sale of kerosene in this State. The kerosene ring are trying to obtain the control, and they are offering a rebate of 1d. per gallon. It will only be a matter of time when they will secure the control of the trade, and consumers will then have to pay through the nose for the kerosene they obtain. I hardly know how we can deal with these things by legislative methods; but I think it is another

exemplification of the power of trusts, and some necessity exists for the Minister for Commerce and Labour to give consideration to the measure and see if he can embody some amendment in the Bill, or later to bring forward legislation dealing with these difficulties. The great difficulty I see in regard to these proposals is not so much the trouble in bringing forward legislation as the difficulty in administering the Act when passed. We all know, in spite of the fact that the payments of these secret commissions are of a very widespread nature and have extended over a long period of years, yet it is only recently they have been made known to the public; and it is only recently a commission inquired into the matter, and made known the very bad condition of things that appertains in the butter trade of Victoria. We also know in connection with the Customs frauds that these extended over a number of years, and it was only due to the vigorous action of Mr. C. C. Kingston, when Minister for Customs in the Commonwealth Parliament, that we know to what great extent the fraud was carried on, in connection with the Customs returns throughout the Commonwealth.

MR. TAYLOR: By very respectable firms.

MR. BATH: I think the remedy for these actions lies not so much in the passing of a measure, because legislation may be passed, and then people think the difficulties are met; but the Act is not administered or difficulties are found in administration. We have legislation on our statute-book, yet the same condition of things continues as in the past. What is needed is some action among the commercial community themselves. What we want is a society for the spread of commercial morality amongst business men. I think if some united action were taken by reputable commercial men to deal with this matter, they could do more to put this down than by passing a measure such as we have now before us. However, if an attempt be made to administer it, I believe the Bill will have good effect. Therefore I have much pleasure in supporting the second reading of the measure. There are one or two details that I shall deal with in Committee; but on the whole the measure appears to be an honest attempt on the part of the authori-

ties to try and deal with a great evil in the business world of Australia.

MR. A. J. DIAMOND (South Fremantle): I regret, with the Leader of the Opposition, that this Bill is only temporary: it must go farther later on. This cancer on the commercial life of the State is not provided for in the Bill as it should be. The hon. member has referred to the commission given in connection with shipping. As far as the shipping companies are concerned, they have a very close combination and they allow a 10 per cent. deferred rebate to those who remain loyal. If you ship by a steamer which is not in the combination you lose your rebates that have accrued. As a matter of fact, in addition to that, no notification is given to shippers about these rebates; and even if a man unwittingly sticks to the rule of the ring, and he knows nothing about the rebate which he ought to get and does not send in a claim, he does not get that rebate. I think I am safe in saying, and I am credibly informed, that there is a large sum of money standing in the books of the inter-State shipping ring to the credit of men who know nothing about it. That sort of thing should be provided for. It is provided for in the United States. I will now refer to the over-sea shipping. The late commission, of which members of the House have not heard the last, brought a state of things to the surface which is simply awful. There is a combination, consisting of the W.A. Shipping Association and the ordinary shipping of London which governs the whole of the freights to Western Australia—not only to Western Australia, but I have learned since that they govern the freights to the Eastern States. So much so, that they virtually have the whole control of the ships and shipping, boycotting the owners who do not fall in with them, and fixing the rates at a ridiculously low freight in competition with them, while there are high freights to Western Australia. The result of the Royal Commission so far has been that the Western Australian Government—I want to say this particularly—have saved in the slight reduction of freights at least ten times the amount of the cost of the Commission. What do the commercial community save? I say the reduction that was made during the sittings of the select committee and the

Royal Commission was a paltry one. It was simply done to keep us quiet; and it means that when the full force of the evidence we brought out is made known and understood, there must be farther reductions. I say the Government of this State—if not the Government of the Commonwealth and the Governments of the whole of the Australian States—will have to take this matter into their hands if something be not done, and subsidise or load ships for themselves. The working of the ring or combination is this. They allow a rebate of 10 per cent., and if within 12 months after you have earned the rebate and you have not committed yourself by shipping by an outside line, then the amount is paid back to you in cash; but if you have not—as they call it—remained loyal to the ring, you do not get the rebate. It is hard to say anything worse than that. If you do not know anything about the rebate, you do not get it. We had witnesses before the Royal Commission, men of high standing, who never knew the rebate existed, therefore never got it.

MR. LYNCH: I thought the shipping firms all preferred freedom of contract.

MR. DIAMOND: I am stating facts. In addition to that, there is an illegal or improper or dishonest charge called primage added to the freight on every shipment you make. That primage or portion, or the whole of it, is returned to you according to what you know about the game. If you know nothing about the game it is not returned to you. The evidence is before members, and it shows that firms in this State never received one penny deferred rebate or the return of the primage. I do not wish to elaborate this question, because probably before the next session is ended I shall bring this matter forward in the shape of a motion. This Bill, while going in the proper direction, is only tentative and does not cover half the ground. The late butter scandal in Victoria was a disgrace to Australian commercialism. We had a large number of men banded together to secure from mail companies secret bonuses which they not only refused to competitors, but which they keep back from customers. In fact they robbed their customers—the owners of the butter never got it. To get the bonus they bribed owners of the

butter factories in Victoria. That is the exact state of affairs. This sort of thing has been going on for a number of years in Australia. America, I am pleased to say, has done a lot of good work, and is still doing good work, and with the aid of the good man at the head of affairs—I refer to President Roosevelt—will still do good work. I have in my hands several Acts passed in America preventing rebates and shipping robberies. These are prevented by the Elkin and Harken Acts. I do not suppose we shall find time this session to go into this matter; but I trust the Government will see that next session of Parliament they will go still farther in the direction they have started in the Bill, which I support.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

MR. ILLINGWORTH in the Chair; the MINISTER FOR COMMERCE AND LABOUR in charge of the Bill.

Clause 1—Short Title:

THE MINISTER moved an amendment that the word "January," in line 2, be struck out and "April" inserted in lieu. This would postpone the coming into force of the Act for three months, and would give people the opportunity to realise the fact that the measure was in force.

Amendment passed, the clause as amended agreed to.

Clause 2—Receipt or solicitation of secret commission by an agent a misdemeanour:

MR. BATH: The use of the word "corruptly" would limit the powers of the Minister in dealing with a person receiving a secret commission.

THE MINISTER: Copies of the Bill were supplied to all Chambers of Commerce, and he had personally interviewed the Perth Chamber of Commerce. They favoured the retention of the word "corruptly." In fact, they would not favour the Bill otherwise. As originally drafted, the word was not included in the clause. The Victorian Parliament inserted the word, but the Commonwealth Parliament would not insert the word for the reason mentioned by the member for Brown Hill. In view of the opinion of the

Chamber of Commerce, we should retain the word.

MR. BATH: The word would absolutely destroy the power of the Minister. Supposing one of the deeds mentioned in the subclauses took place, the agent could explain that it had not been done corruptly, though it was a misdemeanour as provided by the clause. He moved an amendment:

That in line 1 the word "corruptly" be struck out.

THE MINISTER FOR LANDS: If we omitted the word "corruptly" a prosecution was likely to follow the Act of tipping a domestic servant for services rendered.

THE MINISTER FOR COMMERCE: The idea of inserting the word in the clause was to limit the harshness of the measure, and to protect certain trivial breaches of the law, such as the one illustrated by the Minister for Lands. Should a case be before a jury, the use of the word "corruptly" would certainly hamper the jurymen in coming to a decision; but the clause would be too far-reaching if we omitted the word, and few people would be free from legal proceedings, though there were other safeguards provided in the Bill.

MR. HUDSON: There was a safeguard in Clause 18.

MR. BATH: The difficulty was that, however stringent the legislation was made, it would always be difficult to fit the punishment to what would be an offence under the Act; and anything that would limit the power of the Minister would practically render the Act valueless. We should give the Minister the fullest powers.

MR. DIAMOND was not inclined to accept the dictum of the Perth Chamber of Commerce. The members of the Chambers of Commerce in Perth and Fremantle were simply managers appointed by commercial houses in the Eastern States and England, and to legislate as they asked was to legislate on behalf of the commercial houses in the East and England. If they favoured the retention of this word, it was strong reason here to oppose its retention. He regretted the Minister should have listened seriously to the representations of the Perth Chamber of Commerce.

MR. TAYLOR supported the amendment, especially after hearing the grounds for placing it in the Bill. It was not refreshing to know that these Chambers of Commerce had so much influence with the Minister. Had he (Mr. Taylor) been Minister, and had he suggested the inclusion of a word on the recommendation of the Trades and Labour Council, it would have been resented. He protested against the Chambers of Commerce influencing Parliament, especially when it was admitted that they would not accept the Bill unless the word "corruptly" was included in this clause. We should not be dictated to by the Chambers of Commerce.

THE MINISTER FOR COMMERCE: The intention of the Government was to limit the action of the law. The member for Mount Margaret (Mr. Taylor) had often said that it was far better that ten dishonest people should get off than that one honest person should be convicted. That was the object of introducing the word in the clause. We should not pass too harsh legislation.

MR. WALKER: Were we to do what we were told by the Perth Chamber of Commerce? Were we to be intimidated by any party outside this House?

THE MINISTER FOR WORKS: What about the Trades and Labour Council?

MR. WALKER: What would members say if anybody came to the House and stated that the Trades and Labour Council would not accept a measure without the inclusion of a certain word? Nobody would scream more ferociously than the Minister for Works. Ministers went cap in hand to the Chamber of Commerce. The Government were giving everything they possibly could to Commissions, and were now legislating in accordance with the wishes of the Chamber of Commerce. The object was to allow members of that Chamber, when they transgressed the Act, to go into court and say, "We did it, it is true, and we intend to do it; but we do not do it corruptly. We are as innocent as lambs." It was to screen the big offenders, and to reach the little fellows.

MR. PRICE protested against what had been said about perfectly reputable bodies. It was reasonable for the Government to listen with all respect to the advice of bodies like the Chamber of

Commerce in matters of this sort; just as it would be perfectly right and reasonable for them to listen to the Trades and Labour Council in matters dealing with labour clauses; although the probability was that there would not be much reason in the advice that council gave. Nevertheless he believed that every man should know he had no right at any time to square an employee to obtain business, and if he did it, it was a corrupt action. For this reason he intended to vote with those who desired the word "corruptly" struck out.

THE MINISTER-FOR MINES: It was hardly fair to have these innuendos thrown out. It had, he thought, always been found expedient to place before representative bodies any special Act of Parliament by which they might be affected. Personally he had always been in the habit of meeting with the Chamber of Mines on the one hand and the Miners' Association on the other, and had always found that he had been able to get a good deal of information from both sides. Probably the same sort of thing had been done by his colleague. What we desired was to have an Act which would be workable, and we should strive to continue in the one line of legislation right through the piece. Parliament was very careful, in passing the Criminal Code, to see that the word "corruptly" was used. We wanted to be satisfied before any prosecution took place that there was something corrupt about the transaction; that a person was receiving something improperly. If we struck out the word, people might commit what might then be misdemeanours; and yet there might be no corrupt intent. It was only when something corrupt occurred that we wanted it to be punishable. [**MR. BATH:** The clause itself said the deed was corrupt and worthy of punishment.] The question of rebates had been referred to. There were rebates in all classes of business; and as long as they were not secret rebates, but were open, they could not be corrupt. We should make a great mistake if we allowed the word to be struck out.

MR. TAYLOR: The Minister for Mines had cited the Criminal Code to bolster up this Bill; but in his (Mr. Taylor's) opinion, that did not apply, because there was no clause in the

Criminal Code containing such a safeguard as that which appeared in this Bill. Clause 18 provided that no prosecution for offences under this measure should be commenced without the consent of the Attorney General; and he was reminded by the member for Dundas (Mr. Hudson) that Clause 12 was also a farther safeguard. Whilst he raised his voice against the Chamber of Commerce and the influence of the Chamber of Commerce over the Government, he did not infer that he objected to the Government obtaining advice or placing any matter before that chamber which affected it, in the same way as he would expect Ministers to lay a measure before any other organised body if the measure affected it. But he did object to those who held responsible positions being under the thumb of any combination, whether the Chamber of Mines, the Industrial Workers, or the Chamber of Commerce. He strongly resented the Chamber of Commerce dictating the policy and legislation which this House should pass. It was idle for the Minister for Lands (Hon. N. J. Moore) to make some Bunbury sound which he (Mr. Taylor) was hardly able to describe. On his own showing, the Minister for Commerce had a long conversation with the Perth Chamber of Commerce, who said that they would not accept the Bill without the addition of the word "corruptly." In other words, they practically threatened to defy the law if the Bill were passed. Let us point out to the Chamber of Commerce that we legislated in the best interests of the State, and would not be intimidated. This, forsooth, was stable Government—under the control of the Chamber of Commerce, which was presumably the parent of the National Political League! We knew the part played by the league in returning the majority of Government supporters. Presumably the alteration was made out of courtesy to the league. Domination by that body should be resisted.

THE MINISTER FOR COMMERCE: The storm raised by the hon. member was astonishing. He (the Minister) took the entire responsibility for interviewing the Chamber of Commerce. None of his colleagues knew of the interview. Had he thought of the feelings of the

Opposition, he would have referred the Bill to the Trades and Labour Council. When introducing legislation, it was surely the duty of the Government to obtain the opinion of all bodies which such legislation would affect.

Mr. A. J. WILSON: Any person receiving or soliciting any valuable consideration for doing or forbearing to do any act in relation to his principal's affairs, or any valuable consideration the receipt or expectation of which would tend to influence him to show or forbear to show favour or disfavour in relation to his principal's affairs, did a corrupt act. Then why the need for the word "corruptly" before "receiving"? One would think that the Chamber of Commerce desired power to do such acts uncorruptly. If an act were corrupt, it should be punished. The object in inserting the word could only be to give the Attorney General power to decide whether persons had or had not acted corruptly. He supported the amendment.

Mr. KEENAN: The only argument for striking out "corruptly" was the extraordinary argument that a Minister of the Crown had conferred with the Chamber of Commerce. The member for Mount Margaret (Mr. Taylor) attacked the Government for consulting that chamber, and apparently for not consulting any other persons. Surely the opinion of the Chamber of Commerce on this Bill was not a matter of concern to the Committee, who had simply to consider whether or not the word "corruptly" should be struck out. For its striking out not one reason had been advanced. The member for Mount Margaret had himself, as Colonial Secretary, administered the Crown Law Department, and should not forget that the essence of all crime consisted in a criminal intent in the party charged. Many a person did an act in itself criminal, but did it without a criminal intent. Such a man was not made responsible; and the word "corruptly" was absolutely necessary in a criminal statute, so as to protect innocent people. The member for Forrest (Mr. A. J. Wilson) argued that if the clause were read without the word "corruptly," any person doing one of the acts therein set out must be corrupt. If so, why strike out the word

"corruptly," which the hon. member argued could not affect the clause? A man might in absolute innocence receive a reward for doing something in relation to his principal's affairs. It was surprising to hear Labour members, regarded as the exponents of democratic ideas, argue that the criminal law should be made so wide as to include not only the guilty but the innocent.

Mr. DAGLISH: The object of the Bill was to prohibit secret commissions and rebates, and the object of the clause to allow commissions and rebates under certain conditions. Surely the element of secrecy was in itself an indication of corruption. The Bill aimed only at the agent who, while pretending to serve his principal, received some benefit from a third party to the transaction. To retain "corruptly" would assist the agent to betray his principal. If the intent were not corrupt, the agent receiving pay from two parties would let each know that he was in the pay of the other. The interpretation clause provided that the words "solicit any valuable consideration," and "valuable consideration solicited," and words to the like effect, should be construed with the following direction:—"That every agent who shall divert, obstruct, or interfere with the proper course of business or manufacture, or shall impede or obstruct, or shall fail to use due diligence in the prosecution of any negotiation or business with the intent to obtain the gift of any valuable consideration from any person interested in the said negotiation or business, or with intent to injure any such person, shall be deemed to have solicited a valuable consideration." The obvious intent of Clause 2, read with that definition, was to prevent an agent from betraying the interests of his principal; and when those interests were betrayed, they could only be betrayed corruptly. The retention of the word "corruptly" would simply prevent the Government from administering a measure which they said was necessary.

THE MINISTER FOR WORKS (Hon. Frank Wilson): Much was said of consultations with the Perth Chamber of Commerce, and of the Government being under the thumb of the chamber. Whilst Ministers willingly consulted with any bodies of men, whether artisans or merchants, affected by any Bill, Ministers

were not under the thumb of anyone. Ministers were prepared to take advice from such bodies, but followed their own judgment when introducing a Bill. One member complained bitterly about the Chamber of Commerce and business persons being consulted. His own organisation (Labour) had been consulted times out of number. If workers were affected by any legislation, it was proper that those who represented the workers should be consulted to give their views openly and fairly after due consideration, and the Government should take into consideration those views when drafting the measure. The Minister sent the Bill to the tradespeople and business people, who were more interested in a measure of this description than the workers represented by the trades hall. The member for Kalgoorlie seemed to put the whole matter in a nutshell in pointing out that it did not matter whether the word "corrupt" was left in or deleted. His argument was that if any man under the clause was corrupt, having the word "corrupt" in the clause did not matter. Members had put great emphasis on Clause 18, which limited the power of prosecution under the Act, permission having to be granted by the Attorney General. Because the Attorney General granted permission, that did not say that a man had been corrupt. The trial would bring that out. If an agent corruptly received remuneration, then he would be convicted; but if we struck out the word "corrupt," the clause would read absurdly. If we left "corrupt" in, and an agent received anything for doing his principal's business, he was doing an illegal act. This measure was arranged by the member for Subiaco (Mr. Daglish) at the late Premier's Conference; and it was decided that a Bill of this description should be presented to the various Legislatures, and that the Victorian Premier should draft the measure. This was an exact copy of the measure drafted by the Victorian Premier; and he understood, notwithstanding the agreement at the Premiers' Conference, the Government of South Australia absolutely refused to introduce the measure. The only State where the measure had been passed into law was Victoria. We were quite within our rights, and were acting in the best interests of the State, by making the Bill

explicit. A man must be proved to be corrupt before he could be punished. The Leader of the Opposition dragged in bonuses about sugar and rebates—[Mr. BATH: Not on this clause]—and suggested that later on we should have to legislate to suppress these things. In our railway system in Western Australia we had a system of bonuses. If we carried a ton of produce, a certain rate was charged; but if we carried a truck-load, we took it at a less rate. On the gold-fields a reduction in price was granted to the mines that took the whole of their water from the water scheme. As long as a man was acting openly and above-board, and not in a corrupt manner, there was no reason to suppose that he would be prosecuted under the Bill.

MR. LYNCH: The inclusion of the word "corrupt" placed great power in the hands of the Minister administering the Bill. If an offence was committed by a person receiving or paying valuable consideration, it might occur to the Minister that he would justify himself in not taking action by saying he was not paid to receive. The clause placed unnecessary power in the hands of the Minister. The member for Kalgoorlie argued that the inclusion of the word was the essence of the measure. If that were so, it might happen that a person could be apprehended for doing a thing that for the time-being was considered to be felonious; but on farther inquiry, when evidence was produced, that supposed felon was allowed to go free. If we had not this broad ground for the Minister to apply when an Act was corruptly done, it allowed the Minister to say that it was not done with corrupt intent. The burden of proving that the giving or receiving was not in contravention of any of the provisions of the Act would lie on the accused person; but in Clause 16 there was ample provision for any person to clear himself of any apparently corrupt action. If a person was unfairly charged, he could vindicate his character under Clause 16.

MR. BATH: The fact that the member for Kalgoorlie expressed his desire to see the word "corruptly" retained made him (Mr. Bath) more desirous that the word should be deleted from the Bill. One could see the trail of the

lawyer through the hon. member's argument. If the word "*corruptly*" was retained, it would give the greatest scope for the talents of the lawyer in arguing whether consideration was corruptly given or not. To show the fallacy of the argument, one had only to refer to two matters which were responsible for the introduction of the measure. In the first place, we knew that during the investigation by the Royal Commission on the butter scandals, some of those participating in the secret commissions declared that they received the commission in an innocent way, and thought there was no harm in it, and that in taking the money and defrauding their employers they were doing it in a legitimate and innocent manner. It was perfectly legitimate, because legislation had been introduced to put an end to it; but that it was innocent, no one declared. Again, during the prosecutions for defrauding the Customs, allegedly hon. gentlemen in high political positions had been found guilty of deliberately defrauding the Customs, but had claimed that they were doing it in a perfectly innocent way. It was known, however, that these acts consisted of falsifying invoices and making false declarations of goods passing through the Customs. In this Bill, though someone might do the things set out as misdemeanours, it would only be necessary for him to plead to the court that he had done them innocently for him to go free. Again, it might be argued that the person was doing the act on behalf of his employer, which showed the necessity for not limiting the clause by the inclusion of the word "*corruptly*." We should make the taking of a secret commission a misdemeanour, and should not allow a person to avoid punishment by saying that he was acting perfectly innocently, thus setting the measure at defiance. President Roosevelt had recently drawn the attention of the United States Congress to the necessity for dealing with the matter of secret rebates on railways. If they were bad for the commercial morality of America, we would probably find similar things existing here worthy of our investigation.

MR. DIAMOND explained there was no desire on his part to throw any slur against the personal honesty and ability

of gentlemen managing large firms in Perth and Fremantle for commercial houses in the Eastern States, but he had desired to show that in legislating according to the wish of these gentlemen, we were simply legislating for the large firms in the Eastern States, whereas we should legislate for the consumers in Western Australia. He had nothing to say against the members of the Chambers of Commerce, but he regretted that the Minister should have told us that the Perth Chamber of Commerce would not accept the Bill with the omission of the word "*corruptly*."

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

Ayes	...	...	14
Noes	...	...	22

Majority against ... 8

AYES.	NOES.
Mr. Bath	Mr. Brebber
Mr. Bolton	Mr. Cowcher
Mr. Collier	Mr. Diamond
Mr. Daglish	Mr. Eddy
Mr. Holman	Mr. Ewing
Mr. Hudson	Mr. Gregory
Mr. Lynch	Mr. Gull
Mr. Price	Mr. Hardwick
Mr. Scaddan	Mr. Hayward
Mr. Taylor	Mr. Hicks
Mr. Walker	Mr. Isdell
Mr. Ware	Mr. Keenan
Mr. A. J. Wilson	Mr. McLarty
Mr. Troy (Teller).	Mr. Male
	Mr. Mitchell
	Mr. Monger
	Mr. N. J. Moore
	Mr. S. F. Moore
	Mr. Smith
	Mr. Varyard
	Mr. F. Wilson
	Mr. Gordon (Teller).

Amendment thus negatived; the clause put and passed.

Clause 3—agreed to.

Clause 4—Secret gift to parent, wife, children, etc., of agent deemed gift to agent:

MR. BATH moved an amendment to insert the words "or relative" after "children." A relative was just as likely to be an agent for receiving commissions as the parent, wife, or children of an agent.

Amendment negatived; the clause passed.

Clauses 5 to 11—agreed to.

Clause 12—Court may order withdrawal of trifling or technical cases:

MR. WALKER: After taking the precaution in Clause 18 to prevent trivial cases coming before the court, there was no necessity to give still farther power to take these out of the hands of a jury. By Clause 18 we took precaution to

prevent cases of a frivolous and insignificant nature coming before the court at all. Nobody could commence an action without the Attorney General's consent. Why, therefore, give power to the court to take the case out of the hands of the jury subsequently? If the court did so, it would be a censure upon the Attorney General. In his opinion, the case should be left entirely to the court. He was not saying a single word against the Attorneys General of this country; but he had known of Attorneys General in other parts of the world being "got at," and cases which ought to have come into the court did not. If the Government intended to fight for Clause 18, Clause 12 was unnecessary.

THE MINISTER FOR COMMERCE could conceive cases which, in the opinion of the Attorney General, should be allowed to go on to the court, but which, when farther evidence had been adduced, the court might strike out as trivial. It was only to safeguard innocent people that this clause was inserted. It was far better that 50 guilty people should get off than that one innocent person should be sent to gaol. This measure was so far-reaching that we should do everything in our power to safeguard innocent people.

Clause put and passed.

Clauses 13 to 17—agreed to.

Clause 18—Consent of Attorney General to prosecution:

MR. WALKER: Clause 12 having been retained, this clause should be struck out.

THE MINISTER FOR LANDS: In some cases this clause would prevent persons from being put to unnecessary expense in attending the court, the Attorney General being able to give a ruling, before the summoning of witnesses and that sort of thing, whether the offence was a trivial one or not.

MR. WALKER: To put this power in the hands of the Attorney General would be dangerous. Without saying a word against the upright character of men who had occupied the position, we knew the tendency there was in human nature, in the most powerful, honest, and upright of men, at times to be reached by subtle influences in the protection of those who were liable to prosecution. It might be a very honourable motive which actuated

the Attorney General sometimes to prevent a case from coming into court, but this clause would put power into his hands which he should not have. The parties to a prosecution would in all probability only be those holding exalted positions, men of high standing in social life, who possibly might be in daily association with the Attorney General himself, or if not regularly in association with him, at least associated with his friends and the circle in which he moved; and this was only a small State. This provision was exceedingly unwise, more particularly as the power to protect the innocent was already given. The court at any stage could prevent a case from going on. Surely the Judges, who were supposed to be immune from social and other influences which worked in the corruption of society, were the proper persons to handle a matter of that sort. Were the merchants some special class, that we should go to special pains to single them out from other misdemeanants or criminals?

THE MINISTER FOR COMMERCE:

We might well consider the machinery used in this measure. It was absolutely necessary that the Attorney General should view a case; otherwise under this Bill any person might lay information against anyone. It was quite easy to conceive that two or three people might conspire to get an innocent person into trouble. [**MR. WALKER:** There were the laws of conspiracy and those against malicious prosecution.] There could be no harm whatever in safeguarding people who might be so injured. [**MR. WALKER:** It was not done in all cases.] He hoped the Committee would consent to the inclusion of the clause.

MR. BATH: The objection urged by the Minister, if objection it were, would hold good in other cases where people could conspire just as easily. Even if we made this law much more stringent than at present, if we followed the precedent established in Victoria, which Act had been modified by this Minister, we should find that the measure would be very difficult of enforcement. We should delete such a provision as this, which placed a stumbling-block in the way of the prosecution of a party guilty of a misdemeanour under this Bill. He did not think any member had a desire that

an innocent person should suffer; but if we passed legislation which it would be difficult to administer, we should see that no loopholes were given to persons to escape.

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

Ayes	...	...	...	23
Noes	...	...	...	11
Majority for ...				12

AYES.
 Mr. Barnett
 Mr. Brebber
 Mr. Carson
 Mr. Cowcher
 Mr. Diamond
 Mr. Eddy
 Mr. Ewing
 Mr. Gregory
 Mr. Gull
 Mr. Hardwick
 Mr. Hicks
 Mr. Holmes
 Mr. Iadell
 Mr. McLarty
 Mr. Male
 Mr. Mitchell
 Mr. Monger
 Mr. N. J. Moore
 Mr. S. F. Moore
 Mr. Price
 Mr. Veryard
 Mr. Frank Wilson
 Mr. Gordon (Teller).

NOES.
 Mr. Bath
 Mr. Bolton
 Mr. Collier
 Mr. Daglish
 Mr. Lynch
 Mr. Scaddan
 Mr. Taylor
 Mr. Walker
 Mr. Ware
 Mr. A. J. Wilson
 Mr. Holman (Teller).

Question thus passed.

Clause 19—agreed to.

Clause 20—Interpretation:

MR. BATH: Would the Minister assure the House that the interpretation of "agent" included a syndicate or group of persons?

THE MINISTER FOR COMMERCE: Certainly.

Clause put and passed.

Title—agreed to.

Bill reported without amendment.

BILL—TOTALISATOR DUTY.

SECOND READING.

Debate resumed from the 5th December.

MR. F. C. MONGER (York): Unlike the member for West Perth (Mr. Illingworth), I have no objection to a measure of this kind being introduced by the Government. But so far as I can judge, the Bill is aimed more particularly at those racing clubs or institutions doing most good in the interests of racing in Western Australia. I refer to the West Australian Turf Club, and the Kalgoorlie and Boulder racing clubs. Those three institutions, which under this Bill will contribute nine-tenths of the amount of

the proposed duty, have hitherto contributed most freely to charitable institutions, and the remainder of their profits has always been devoted to the improvement of their courses and to increasing the stakes given for racing. In these circumstances I think most of us will agree that the Government propose to tax institutions which have hitherto done good, not for themselves, but for the localities in which they are situated. Personally, I have no objection to a duty of $2\frac{1}{2}$ per cent. on the gross takings of totalisators; but I hope that in Committee the Government will fall in with the suggestion of the member for the Swan (Mr. Gull), and will not try to attach the fractions and the unclaimed dividends. The matter of unclaimed dividends has come under the notice of the select committee which, during the past few days, inquired into the prevalence of horse-racing; and it was found that the amount of the unclaimed dividends is so trifling as to be unworthy of notice by the Government. The unclaimed dividends may well be left at the disposal of the racing clubs. Save from the three clubs I have mentioned, the revenue derived under the Bill will be very small. The courses of the Kalgoorlie and Boulder racing clubs more especially have, save on the few days reserved for racing, been used as public parks for the benefit of local residents. To tax those clubs unnecessarily, as I am firmly convinced the Bill proposes to tax them, is to go a little too far; and I do not think that it can be honestly the wish of the Government or of the House to impose on those institutions more than a fair tax. I should like also to bring under the notice of the Government the fact that the principal racing organisation in this State has during the past few months incurred a heavy responsibility by making, for the benefit of its patrons, extensive improvements to its course. And I say it would be manifestly unfair if the Bill were passed and came into operation prior to the next meeting. I have therefore given notice of an amendment that the Act shall not come into force until the 4th January, 1906. Considering that the bulk of the revenue to be raised by this Bill will be derived from institutions whose moneys are expended on the improvement of their racecourses, for the

general advancement of horse-racing, and in charity, I would ask the Government to adopt my suggestion as to the commencement of the Act, to accept the amendments tabled by the member for the Swan, and for the rest to be content with the main proposal of the Bill—the tax on totalisator receipts.

On motion by MR. MITCHELL, debate adjourned.

ADJOURNMENT.

AS TO FINANCIAL STATEMENT.

THE MINISTER FOR MINES (Hon. H. Gregory): Owing to the absence of the Premier, who is preparing his Estimates, I move that the House do now adjourn. On Tuesday evening next the Premier will deliver his Budget Speech.

MR. F. ILLINGWORTH: Before the motion is passed, I should like to ask the Minister whether he wishes to give any farther notice concerning the Budget Speech?

THE MINISTER: That notice will come in the form of a Message from His Excellency the Governor.

Question put and passed.

The House adjourned at 17 minutes to 5 o'clock, until the next Tuesday afternoon.

Legislative Council,

Tuesday, 12th December, 1905.

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

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Public Works Department, return re-rented Government offices. 2, Public Works Department, Roads Act 1902, by-laws of the Mourambine Road Board. 3, Report of the Acclimatisation Committee of Western Australia for 1904-5.

QUESTION—RAILWAY PROJECT, NORTH DANDALUP.

HON. E. McLARTY asked the Colonial Secretary: 1, Has the Government definitely decided to construct a railway from the South-Western line, near North Dandalup, into the timber forest? 2, If so, is it intended to be the first section of a line to Marradong? 3, Why was the original survey direct from Pinjarra railway station to Marradong through the timber forest abandoned?

THE COLONIAL SECRETARY replied: 1 and 2, No decision has yet been come to. 3, The survey was not abandoned, but was completed.

BILL—FISHERIES.

RECOMMITTAL.

On motion by the COLONIAL SECRETARY, Bill recommitted for amendments.

Clause 30—Power to arrest offenders:

THE COLONIAL SECRETARY moved that the following paragraph be added:—

Any such person who escapes or attempts to escape from an inspector before or after arrest shall be guilty of an offence against this Act.

This addition would make it an offence for any person to escape or attempt to escape from arrest.

Question passed, the paragraph added.

Clause as amended agreed to.

New Clause—Granting of license discretionary:

THE COLONIAL SECRETARY moved that the following be added as Clause 15:—

The granting or refusal of a boat license or fisherman's license shall be in the discretion of the officer appointed to issue licenses. But if any person shall think himself aggrieved by the refusal of a licence, he may appeal to the Minister, who may, if he thinks fit, direct the license to be issued.

The object of the new clause was to remedy an omission in the Act, so that the officer authorised to issue licenses might use his discretion. For instance,