

Legislative Council,*Thursday, 7th January, 1904.*

[RESUMED AFTER CHRISTMAS ADJOURNMENT.]

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

PRAYERS.**ELECTION RETURN—METROPOLITAN-SUBURBAN.**

THE PRESIDENT announced the return of writ for the election of a member for the Metropolitan-Suburban Province [in room of Mr. W. G. Brookman, seat vacated]; showing that Mr. Joseph Wood Langsford had been duly elected.

MR. LANGSFORD took the oath, and subscribed the roll.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Alterations to Railway Classification and Rate Book. By-laws of the municipality of Kookynie.

Ordered, to lie on the table.

GOVERNMENT RAILWAYS BILL.**SECOND READING.**

THE COLONIAL SECRETARY (Hon. W. Kingsmill): In moving the second reading of this Bill, I would like to present it to members as being almost entirely, as it now appears before them, a consolidating measure. If members will turn to the last page of the Bill they will see by the schedule that no less a number than 10 Acts now on the statute-book are repealed by this Bill, and the effect of these Acts has been transferred to the Bill itself. There remains now in the Bill as it reaches us practically nothing new. It is true that certain clauses were placed in the Bill as first laid before another place, which involved some new principles and enunciated some new rules for the guidance and government of the railways; but these clauses have, almost without exception, been deleted. It appears that another place seems to think

our railways legislation as it at present exists on the statute-book is good enough for the circumstances of the State; and the members have therefore made this Bill as it were a consolidating measure more than anything else. To review the Bill shortly, members will see that the usual clauses occur—first the short title and divisions, the interpretation, the repeal, and the saving clause with regard to the repeal of rates existing under previous legislation. Part II. deals with the Commissioner of Railways; and the Commissioner insofar as Part II. is concerned is in precisely the same position under the Bill as under the present Railways Acts. Part III. goes on to deal with the management, maintenance, and control of the railways. In Clause 20 for the first time we see a provision which expresses a principle already in existence, but it is put in the Bill instead of being left as a matter of course to be dealt with by the Commissioner; and that is well. Clause 20 enables the Commissioner to use any railway locomotive engines consuming any kind of fuel, and he may draw or propel thereby carriages, wagons, machines, appliances, and plant of every kind. Clause 21 provides for a possibility, which members will hope with me before many years are past will become an accomplished fact, by giving power to the Commissioner, with the consent of the Minister, to use, in addition to or in substitution for any existing motive or traction power, any system of electric or other traction of which he may approve, and he may maintain or repair and use all works necessary for such system of electric or other traction. Members will be glad when the day comes, and I feel sure the day is coming fast, when all the suburban traffic will be run by the medium of electric power; and I am pleased to inform members that the Engineer-in-Chief, who will shortly visit England, will have as one of the objects of his commission instructions to make the fullest possible inquiries into the best methods of securing electric traction for the purposes of dealing with passenger traffic. The rest of this part is practically the legislation we now have on the statute-book. There are, however, certain principles laid down here which as I have previously said are now followed in practice,

but which the Bill seeks to make law. For instance, in Clauses 35 and 36 members will see that in actions by or in actions against the Commissioner, the Commissioner pleads in his capacity as Commissioner on behalf of the Crown. In Clause 37 as drafted various amendments have been made in another place. The clause originally proposed that the Commissioner should cease to be a common carrier. That provision has however been altered, and he is now subject to the same liabilities and enjoys the same privileges as any other person carrying goods in Western Australia. In Clause 39 as drafted another amendment was made. The clause proposed that the maximum limit of damages recoverable against the Commissioner should be £1,000; but £2,000 has been inserted in lieu, being I think the limit provided in the Crown Suits Act. Clause 51 is new, and seeks to impose on railway servants the same penalties for being drunk while on duty or while on the railway, or for any neglect or breach of duty, as are imposed on the general public. The general public are liable to be arrested, summarily dealt with, and fined, if found in a state of intoxication or misconducting themselves on the railways; and the same penalties are now provided for railway servants. Clause 56 is one for which those who manage the railway finances have long been waiting. It enables the Commissioner to sell locomotives, rolling stock, machinery, material, plant, and other effects which have been charged to a vote of Parliament appropriated to the department, and which are no longer required, and to credit the proceeds of such sale, not as in the past to general revenue, whereby the vote appropriated for railway purposes has been unfairly diminished, but to credit the proceeds to that vote itself, which is a businesslike procedure the want of which has been severely felt. With regard to Part V., authorising the leasing of railway property, by Subclauses 1 and 2 of Clause 57 the interests of the public and the control of Parliament are rigidly conserved. Firstly it is provided that the letting of a railway or of portion of a railway shall be by public tender, and secondly that the terms and conditions of the lease shall be laid before Parliament not less than 30 days before

tenders are called for. Thus the potential criticism which I think always exists in both branches of the Legislature will have an opportunity of venting itself, the interests of the public will be fully protected, and the control of Parliament fully exercised. The provisions of Clause 68, by which the Commissioner may appoint and dismiss certain officers, are those of the existing Act. The next clauses in any sense new are those which follow Clause 59; and they authorise, in Clause 70, the creation of what is known as an appeal board, and give a right of appeal to such board for railway servants who think themselves unfairly treated. Similar appeals have for some time been allowed in the locomotive branch of the service; and I think myself justified in saying that the results have been satisfactory to both parties. Members may perhaps say that the new appeal board is likely to find itself overworked, seeing that the right of appeal is allowed in all cases; but I would ask members to read the clauses which constitute this board, and which lay down the functions and powers thereof. The second paragraph of Clause 75 provides that the appeal board may fix the costs of any appeal, and direct by whom and in what proportions they shall be payable; and in every case costs shall be awarded against an appellant whose appeal is considered frivolous. The paragraph is absolutely mandatory. Where the board finds that any appeal is frivolous there is not even the option of deciding whether or not costs shall be awarded against the appellant; but it is specifically stated that the costs shall be awarded. I think that provision will have a deterrent influence on frivolous appeals. I presume the costs can be recovered by distraint; and possibly the appellant can be imprisoned for non-payment. I do not think it worth my while to touch on any other clauses; because members who have taken the trouble to compare the Bill with existing legislation will find that the clauses I have already referred to are practically the only clauses which introduce any new principles. I know, however, that it will be a great comfort to those members who in this House represent agriculture, to see that the Bill as it reaches us differs materially from the first draft,

and differs by reason of the elimination of certain clauses relating to the starting of bush fires, the prevention of sparks from engines, and so forth; and as to this I am informed by the Minister for Railways that a conference is to be held between the representatives of agricultural districts and the railway authorities, with a view to arriving at a just compromise. I beg leave to commend the Bill to the House; to tell members again that the Bill follows out the principle which has to a great extent marked this session's legislation, that is the principle of consolidation; and I have much pleasure in moving that the Bill be now read a second time.

HON. T. F. O. BRIMAGE (South): I second the motion.

HON. G. RANDELL (Metropolitan): This is a Bill of considerable importance; but the Minister has told us that it is largely on the lines of existing legislation. From what he has indicated, I think it an improvement on the existing law, and some of its new provisions seem to be highly desirable. I understand that some exception has been taken to one or two clauses, especially Clauses 29 and 37, and I believe a deputation waited on the Colonial Treasurer or the Commissioner of Railways with reference to the insertion of the word "wilfully" in Clause 29, so that the clause would read, "If any person wilfully makes a false statement," etc. If a person accidentally made a wrong entry, he would, by this clause as it stands, be placed entirely at the mercy, if I may say so, of the Commissioner or of the Government; but at the same time I realise there would be considerable difficulty if the word "wilfully" were inserted, as it would throw the onus on the Commissioner of proving that the act was wilful. On that point I think we may trust our Courts. I see that many decisions have been given not only in this but in other States, which show that Courts are willing to take into consideration any mistake which has been made when there has been no attempt to defraud either the customs or (as in this case) the railways; so we may reasonably expect, in the light of past experience, that the measure will be administered in a reasonable and liberal manner, and therefore any difficulty which might otherwise arise, and might be the occasion

of haling respectable citizens into Court for a crime of which they are not guilty, will be avoided. As to Clause 37, paragraph (a), I would ask the Minister the meaning of the words "unless the action is commenced within three months after its cause shall have arisen"—whether that means an action against the Commissioner, or any act, notice, or anything of that kind. I take it that if a person has lost some of his property, he will give notice to the Commissioner of Railways that he has sustained that loss; and then he must, I suppose within three months after that, commence an action in the Court for the recovery of the damage, if he thinks he is entitled to it. [THE COLONIAL SECRETARY: Yes.] That will perhaps clear away misunderstanding. Under the circumstances which occurred in this State some few years ago, it would have been impossible sometimes for a man to commence an action within three months, because he had not discovered the loss on account of the block on the railways which took place then, and which perhaps may not occur again—we hope it will not in one way, and yet we may wish it in another sense; even then I presume the circumstances would be taken into consideration. In those days sometimes it was impossible during three months for a man to state that he had sustained any damage or loss because he could not get delivery of the goods which were lying at what was called the farm or in some other part. However, three months seems a reasonable time to give in cases of this description. It is to be hoped that a person who sustains loss may be able to gather the necessary evidence to proceed with his action in the time specified here. Although the provisions of this Bill are very stringent, I quite agree it is absolutely necessary, to carry on our railways in a proper way, that they should be stringent, or else the public at large would suffer loss possibly for the individual benefit. I am sure people do not desire that, yet at the same time we wish to protect persons who use the railways lawfully, honestly, and rightly. I am also pleased to see that the Commissioner is placed in a position apart from political influence to manage our railways, and to conduct them on business lines. As I have said in this House before, I feel assured that in the present Commissioner

we have a man who will not do an act of injustice, but will see fair play given to every person deserving of it, to every person honestly and faithfully trying to do his best; and at the same time I feel sure he has it in him to secure the most economical working of the railways with a view to the benefit of the country. A good deal of complaint has been made and a great deal said about the present occupant of that office; but I held the opinion from the first that he had the qualities of a man who would be able to successfully carry on the railways. Although those complaints have been made since and there has been a great deal of writing, some of it very violent, I have not changed my favourable opinion of Mr. George. When I say this, I am not prepared to justify the methods he always pursues. I think if he had the *suaviter in modo* a little more prominent than he has, it might help to the more pleasant and agreeable working of the institution over which he presides; but I am satisfied that on the whole he has the ability and will bring that ability, his knowledge of business, and his acumen to bear on our railways, and I anticipate that in as short a period as possible he will have them on a very satisfactory basis. I am pleased to be able to express that opinion from such knowledge as I have gained as to the discharge of the duties of Commissioner. I had, I say, confidence in him from the beginning, and I have greater confidence in him now; and I trust the Government will resist any influence which may be brought to bear upon him to interfere with the ordinary working of the railways and the faithful discharge of his duties to the Government, to the public, and to the employees. I am sorry we have not had longer time to consider the Bill, because when debate takes place on a measure it causes light to be shed upon it, and enables one to form a better judgment. We run the risk, in passing Bills of this description rapidly through the House, of finding after we have done so that some little things here and there have escaped the notice not only of the Government and the Legislative Assembly but of members of this House. However, fortunately we have the power, when we find that these things occur, to bring in amending Bills to place the

matter right. I only hope that this Bill may conduce to the prosperity of the railways and to their smooth working.

HON. C. E. DEMPSTER (East): I have pleasure in supporting the second reading of this Bill. From what I have seen of it, I think the measure a desirable one in every way. I entirely agree with the system of placing the whole of the control of the railways in the hands of the Commissioner, because it will be to his advantage in every possible way to carry out those duties in a manner which will be satisfactory to the country generally. I feel sure that gentleman has always had that desire at heart, and I hope he will be so guided that he will always be prudent and will act with tact in his administration. I feel sure he will be always amenable to reason and will carry out his duties satisfactorily. I have been fully of opinion that if power were entirely in the hands of the Commissioner, things would be carried on more satisfactorily than they have been hitherto. I sincerely trust this Bill will prove to be desirable in every way, as I feel sure it will be; and I have pleasure on this present occasion in congratulating the Government on introducing it.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1 to 14—agreed to.

Clause 15—Certain Acts not to apply to Commissioner:

HON. G. RANDELL: Was this personal?

THE COLONIAL SECRETARY: It was really a matter embodied in an agreement.

Clause passed.

Clauses 16, 17—agreed to.

Clause 18—Power to protect railways:

HON. J. W. WRIGHT: It appeared that the power to take water from streams alongside the railway might prevent others from pumping water over their land.

THE COLONIAL SECRETARY: The clause simply conferred power on the Commissioner to sink wells.

HON. J. W. WRIGHT: Could the Commissioner prevent other people from doing so?

THE COLONIAL SECRETARY: No.

HON. J. W. WRIGHT: There was no common sense in the clause.

Clause put and passed.

Clause 19—Gates and cattle stops:

HON. G. BELLINGHAM: Subclause 2 provided that it was not lawful, without the consent in writing of the Commissioner, to erect or maintain across a road, where such road crossed any line of railway on the level, any gate within two chains of the middle line of such railway; but the majority of railway reserves were only two chains wide. There evidently was a misprint in the subclause.

THE COLONIAL SECRETARY: No. This, like the other subclauses, was for the purpose of giving the Commissioner some control over the state in which fences adjoining a railway line were kept. The consent of the Commissioner was not withheld in any case where it was plainly seen that the interests of the railway and public did not suffer. The Government should have some control over the access to railways.

HON. C. A. PIESSE: The subclause was a good one, and he trusted no alteration would be made. If a man wanted to erect a gate without getting the consent of the Commissioner, he could make a recess so as to carry the gate beyond the two-chains limit.

HON. E. McLARTY failed to see why the Commissioner should have control over the landholders outside the two-chains reserve. The Commissioner should not be able to take two chains of a man's land, and then have control over the settler who wanted to erect a gate outside that radius. To give the Commissioner authority over an additional chain on either side of the line, practically a control over four chains, was unwarranted interference on the part of the Commissioner.

THE COLONIAL SECRETARY: One of the chief functions of the Commissioner was to protect the general public without unduly harassing the landholder, and to that end a certain amount of control was given to him, not over the land adjoining a railway, but over the right to erect gates within a certain distance of the railway. As Mr. Piesse pointed out, no consent was necessary when the gate was erected more than two chains from the railway; but where it was proposed to construct a level

crossing over the railway for stock, the consent of the Commissioner must be had. This was a perfectly reasonable proposition, and could scarcely be termed unwarranted interference. It provided for the safety of the public and for the protection of the landholder.

HON. W. MALEY: The Commissioner was going outside the area over which he had control, and was interfering with the jurisdiction of the roads boards. If it were a question of the construction of gates to enable people to drive stock across a railway line, it would be an entirely different matter; but this subclause went a shade farther and tended to prevent the erection of gates by roads boards within two chains of a railway crossing.

HON. C. A. PIESSE: It was a very safe provision.

HON. W. MALEY: It might be; but whether it was wise to allow the Commissioner of Railways to go beyond the boundary lines of the railway and interfere with the methods or the desires of a roads board or of the public, was questionable. He believed it was a transgression farther than there was really any occasion to go. Throughout his travels he had not found any inconvenience or danger caused by any gates such as were aimed at in the subclause, and he did not know of an instance on the Great Southern Railway of a gate within two chains of the railway crossing. Probably the subclause was put in, as clauses were frequently put in Bills, to deal with some particular instance. If so, it was most unreasonable, because we might be establishing a precedent that would lead to a good deal of trouble. In Clause 65 the Commissioner sought for power to control all the traffic that crossed William Street, Perth. An attempt was made some twelve months ago to interfere with the traffic across William Street. Power was sought by the Commissioner to close any highway across which the railway ran. Now another attempt was to be made by Clause 65 to interfere with this matter, and to absolutely control all traffic that would go across from Wellington Street to the other side of the railway. There was something objectionable in this subclause. It seemed to deal with some particular instance.

HON. E. M. CLARKE: The Minister should give a farther explanation for the necessity of the subclause, showing where danger was likely to occur from these gates. There seemed to be no objection to erecting a gate in a paddock within two chains of the centre of the railway.

THE COLONIAL SECRETARY: Where a gate was situated two chains from the middle line of the railway, there was a much better chance for stock or anything travelling over a level crossing to be able to get away in safety from a passing train, than where the gate was only half a chain from the railway centre.

HON. E. McLARTY: If the Commissioner went two chains from the centre of the railway, that would be trespassing on somebody's land, in many cases. He moved:

That in line 4 of Subclause 2, the words "two chains" be struck out and "one chain" inserted in lieu.

HON. J. A. THOMSON: Sufficient reason had been given for taking the precaution provided in the clause. People with vehicles crossing the line, or stock in going over the rails, would have an opportunity of getting out of the road of a train if the space between the gates was four chains wide. If the gates were only one chain from the centre of the railway line, there would not be the same opportunity of getting out of danger. The Commissioner was not asking for permission to erect gates on other people's property, but the subclause allowed an owner, if he wished to have a gate placed at a level crossing, to erect one there with the consent of the Commissioner in writing.

THE COLONIAL SECRETARY: It was not prohibitive to erect gates less than two chains from the centre of the line, and the consent of the Commissioner would not be refused unless on good grounds.

HON. E. McLARTY: At present the railway lines as a rule were fenced, but he had not seen gates erected two chains from the centre of the railway line. There had been no trouble in this regard in the past. The Commissioner had just as much right to say that a man should not plough within two chains of the centre of the railway line as to say that

he should not erect gates. It was unwarrantable interference.

HON. M. L. MOSS: The hon. member was raising a storm in a teacup. If the Commissioner exercised his full power under the subclause, that of withholding his consent to the erection of gates unless they were erected two chains from the centre of the line, that would only deprive the owner of the land of two chains of land; but it was lawful to erect a gate closer than two chains if the Commissioner consented. It was no unwarrantable interference.

HON. W. T. LOTON: The clause was somewhat difficult to understand. At present the land reserved for railway purposes was two chains wide, and possibly at some railway station the land resumed might be wider. It was only where a road crossed the railway line that the power contained in the clause was reserved to the Commissioner. There would be no hardship on the owner of private land, and it would be a protection where the traffic crossed the railway line.

Amendment negatived, and the clause passed.

Clauses 20, 21, 22—agreed to.

Clause 23—By-laws:

THE COLONIAL SECRETARY moved that in line 4 of Subclause 21 the word "damages" be struck out and "damage" inserted in lieu; also in the same line after "destruction" the words "or detention" be inserted. The subclause made provision for the hire, use, and detention of locomotives, and therefore provision should be made for liability in case of detention.

Amendment passed.

THE COLONIAL SECRETARY moved that at the end of Subclause 26 the words "and prescribing the terms of employment" be added. This was a necessary and obvious amendment.

Amendment passed, and the clause as amended agreed to.

Clauses 24 to 28—agreed to.

Clause 29—Penalty for giving a false consignment note or way-bill:

HON. J. W. WRIGHT: The word "wilfully" should be inserted after "person" in line 1.

THE COLONIAL SECRETARY: If the word "wilfully" was inserted, then it would be necessary to prove intent. The absence of intention was practically

a good defence. It would be very difficult to prove intention, and if the word was inserted there would be no conviction under the clause.

Clause passed.

Clauses 30, 31, 32—agreed to.

Clause 33—Application of proceeds of sale:

HON. J. W. WRIGHT: This would be unjust to a man who, by illness, was prevented from putting in a claim within the time limit. For instance, he (Mr. Wright) was down with fever for three months, last year.

THE COLONIAL SECRETARY: A three-months limit was reasonable, and it was provided also in Clause 37 as to actions for lost goods. Surely a man would not be unconscious for three months or be unable during all that time either to appear in person or by agent to claim the proceeds of the sale.

HON. G. BELLINGHAM: Recently we read of a woman sleeping for 17 years.

THE COLONIAL SECRETARY: The Legislature could not provide for abnormal cases. There must be some finality as to railway accounts, which had to be closed periodically.

Clause put and passed.

Clauses 34, 35, 36—agreed to.

Clause 37—Notice and commencement of action:

HON. J. W. WRIGHT: By Subclause 2 a month's notice must be given before proceeding. Why should persons who wished to leave the State be prevented from taking immediate action? He moved that Subclause 2 be struck out.

HON. M. L. MOSS: A precisely similar provision appeared in the Crown Suits Act, the object being to enable the department to make inquiries, and by settling valid claims to prevent litigation. Every other Government department was similarly safeguarded.

Amendment negatived, and the clause passed.

Clauses 38 to 44—agreed to.

Clause 45—Penalties for offences relating to tickets, etc.:

THE COLONIAL SECRETARY moved that the word "or" be inserted after Subclauses 1, 2, and 3.

Amendments passed, and the clause as amended agreed to.

Clause 46—Penalty for travelling without payment of fare, etc.:

THE COLONIAL SECRETARY moved that the word "or" be added to Subclause 1.

Amendment passed, and the clause as amended agreed to.

Clauses 47 to 53—agreed to.

Clause 54—Quarterly railways working account:

HON. G. RANDELL: Would not the preparation of this add considerably to the expenses?

THE COLONIAL SECRETARY: No. It would show the totals only.

Clause put and passed.

Clauses 55, 56—agreed to.

Clause 57—Commissioner may lease railways:

HON. J. W. HACKETT moved that the word "Minister," in line 1, be struck out, and "Governor" inserted in lieu. The proposal to lease Government Railways was highly contentious, and was opposed in many quarters. Nevertheless, if a small section of a railway were let on lease, the advantages would doubtless be so great that the principle would be extended. The clause proposed that Parliament should be given an opportunity of considering the tenders, but denied this privilege to Cabinet, who were surely entitled to a voice in the decision.

THE COLONIAL SECRETARY: The amendment, though not in harmony with other clauses, would not be objected to; but as the letting must be by public tender, and as the terms and conditions must be laid before Parliament not less than 30 days prior to tenders being called for, the amendment seemed unnecessary.

Amendment passed, and the clause as amended agreed to.

Clause 58—agreed to.

Clause 59—Restaurant cars, refreshment rooms, bookstalls, etc., may be leased:

HON. C. A. PIESSE: Vile stuff was now sold in some refreshment rooms. The tea was poisonous. Contracts should not be let to any but reliable persons. This morning in one of the leading refreshment rooms on the Eastern Railway the tea sold to the public was not fit for a pig to drink, though on each cup there was, he understood, a profit of 5d. He and many others had to throw away the beverage; and this was a frequent occurrence. The sale of tea which had

been infused two or three days previously should be prevented. Travelling as he did every week, he knew that the public complained bitterly of the treatment they received.

HON. W. MALEY indorsed much of what the last speaker said. The price charged for "split sodas" was so high at some of the refreshment rooms that few could afford to pay it. A charge of a shilling for a split soda, half the ordinary sized bottle, was made at more than one station. The Government in their endeavour to raise revenue did not attempt to discriminate regarding the class of tenant that should occupy refreshment rooms on the railway line; consequently every attempt was made by the lessee to make as much money as he could whilst in possession.

THE COLONIAL SECRETARY: There were regulations relating to charges.

HON. W. MALEY: There were, but they were not properly framed. He tested that in connection with soda. It was said that the soda was only 3d., but the bottle 9d. He handed the bottle over, and received a bottle of soda in exchange for 3d. As to tea, he had insisted upon having fresh milk with it instead of horrid condensed milk, but he had been told "It all went by the last train—the last train was so crowded that our supply of fresh milk was used up." He hoped something would be done in this matter.

HON. G. RANDELL: Would the terms and conditions include restrictions as to serving a man who was in a state of liquor? Would there be any effort to obtain decency and comfort for the other passengers who travelled by the train? He held the opinion that it was undesirable and unnecessary to have refreshment cars selling spirituous and fermented liquors, and to have these refreshment stalls also selling spirituous and fermented liquors. He thought public opinion was not at the present time prepared to go so far, otherwise he would move the rejection of this clause. He would like to be assured that the greatest care would be used, so that these places and this business would not degenerate into something which would bring discredit to the country and interfere with the comfort of railway passengers.

THE COLONIAL SECRETARY: This Bill provided that a person travelling by train in a state of drunkenness was liable to prosecution and arrest, and a person who was drunk when endeavouring to get on a train would be arrested and not allowed to travel. It was not really necessary to give the assurance asked for. He would, however, have much pleasure in laying the remarks of the hon. member before the Commissioner, who, he was sure, would be prepared to do all that was necessary to provide for the proper conduct of persons on a train.

Clause passed.

Clauses 60, 61—agreed to.

Clause 62—Grant of easement—verbally amended.

Clauses 63, 64—agreed to.

Clause 65—Power to close bridges, etc.:

HON. G. RANDELL: Would this clause operate in the case mentioned this afternoon with regard to the William Street crossing? It seemed stretching the question to include subways. He hardly thought repairs to a subway would necessitate its being closed. Personally he would like to see a great many more subways on our railway lines. There were many places where they could be easily fixed, and where they would be far preferable to overhead bridges. He would like to be assured that it was not contemplated to interfere with a public highway like William Street, in regard to which he was sorry to say that at present there was no endeavour to meet the wishes of a large portion of the population of Perth. He regretted that the plan of the bridge was so hastily accepted by the department and would inflict such serious injury and loss of time to the foot passengers going from one side of the city to the other. A great deal of credit had, he believed, been claimed for the plan of the bridge; but the plan was ridiculous, and not in the interests of the public at large. Behind it all there was an advantage to the Railway Department. He felt pretty sure that those arches were erected for the purpose of making offices or something of that kind; or it might be warehouses, stores, or that sort of thing. The Railway Department ever since it had been in existence had failed to consider the advantage and interests of the public at large. As far as he was aware, no means had been devised for enabling

passengers coming say from the north side of the railway to get tickets without going into Wellington Street. Probably it might be intended to afford convenience by which persons wishing to get upon the railways would be able to do so from the Roe Street side and get to a ticket office, avoiding the roundabout way which existed at present. When the other bridge was up there were two staircases which led down to the platform, and they were of great convenience to the travelling general public. He hoped the Minister would be able to give some assurance that these things were having the consideration of the department, or that he would bring the matter forward so that steps should be taken to lessen the present inconvenience. He (Mr. Randell) held the opinion that there was no necessity for any but a straight bridge.

HON. W. MALEY: A considerable sum was paid by the Government for the designing of the William Street bridge, and there had been a law suit running into two or three thousand pounds. This bridge, which would divide absolutely one portion of Perth from the other, should, when constructed, be under the jurisdiction of the municipality. To one feature of the clause which provided that the Commissioner might from time to time close any bridge or subway to traffic while repairs were in progress, or in the interests of public safety, there could be no objection; but we had every right to object to the first part of the clause. It was our duty to insist that the public rights should be protected with regard to the William Street bridge and other bridges. The first part of the clause provided that the public right of way on any bridge or subway over or under any railway, or on any road crossing a railway on the level, should be subject to the by-laws made under the Act. The Railway Act could thus override the local authority, and the direction of pedestrian and vehicular traffic would be under the control of the Railway Department. If members would look at the principle underlying this and support the principle, they would on no occasion find themselves on rotten ground; and he was satisfied that the position he took up was a solid one, and that public opinion would be with him. The railway authorities sought a power they did not

require, in order to use it in an arbitrary, unfair, and unreasonable way. What right could the Commissioner and the Government or a railway company have over any road passing over a railway? The Government should recognise that the traffic should be directed by the local authority, as it was before the bridge was erected. At Albany many years ago a land company put a railway across York Street, and one of the councillors went with an axe and chopped down the gate put up by the company to make solid their control of the road. This was a case on all-fours with the matter of the William Street bridge, except that property owners in the vicinity of the William Street bridge had not gone in for any desperate measures, or there might have been conflict with the Railway Department, and perhaps much bloodshed. We did not want conflicting interests, but should adopt a solid principle. By accepting the first part of the clause we would not be adhering to a good principle, but on the other hand would be opening the way to a good deal of trouble that could be avoided by amending the clause. He moved that the words "The public right of way on any bridge or subway over or under any railway, or on any road crossing a railway on the level, shall be subject to the by-laws made under this Act, and" be struck out.

THE COLONIAL SECRETARY: Hon. members should not listen to the arguments that have been used. He would in the first place pass over the contention of the hon. member that the Railway Department existed only to be a bitter enemy of mankind.

HON. W. MALEY: That was misrepresentation.

THE COLONIAL SECRETARY: It was most awful misrepresentation on the part of the hon. member, because the hon. member contended that the sole object of the department was to stop all progress.

HON. W. MALEY: On a point of order, the hon. member should withdraw his words, having claimed that by misrepresentation he (Mr. Maley) had made a certain statement that it was the object of the Commissioner to make war against mankind.

THE CHAIRMAN: The hon. member did not say that. The Colonial Secretary would withdraw.

THE COLONIAL SECRETARY was not quoting the hon. member, but was alluding to the inference to be drawn from his remarks. It was impossible to allow a municipality to control the portion of a road, subway, or bridge crossing a railway reserve. It was laid down that by-laws should be assented to by the Governor-in-Council and laid before Parliament, so that Parliament could approve or disallow them. This should be ample protection for all parties concerned.

HON. G. RANDELL: Was the first part of the clause in the present Act?

THE COLONIAL SECRETARY thought so. The first part of the clause was necessary because it went with the second part. It was essential that traffic over a bridge should be stopped for some considerable time in the interests of the railway and general public when repairs were being carried on, and the interests of the public were properly safeguarded by the procedure on the creation of by-laws. By a substantive resolution of the House any by-law might be disallowed, and if any objectionable by-law was adopted it was only through the neglect and apathy of Parliament that it escaped deletion. With regard to the William Street bridge, it would be a very easy matter to give access to the platform from the bridge, if it were found desirable to do so. Owing to the suddenness in which the matter was sprung upon him, he could not give the assurance Mr. Randell desired, but he would bring the matter under the notice of the Minister for Railways, and he had no doubt that the Commissioner would take the necessary steps to see that the interests and convenience of the public were amply safeguarded.

Amendment negatived, and the clause passed.

Clauses 66, 67—agreed to.

Clause 68—Commissioner may appoint and dismiss certain officers:

On motions by the COLONIAL SECRETARY, the word "and" inserted in lieu of "or" in line 7; also the words "such power shall be deemed to have been so delegated" added to the clause.

Clause as amended agreed to.

Clause 69—Appeal—amended by adding the word "or" to Subclause 1.

HON. J. T. GLOWREY: The minimum fine should be stated. It surely

was not intended to allow an appeal in the case of a fine of a shilling or half a crown? The minimum should be £1.

HON. M. L. MOSS: Clause 75 dealt with this matter by making frivolous appeals subject to costs.

HON. B. C. O'BRIEN moved that the words "This clause shall be made retrospective for a period of three months from the coming into operation of this Act" be added to the clause. There were several railway employees who until lately were employed permanently, but for some reason their services were dispensed with. One employee living at Fremantle desired to get a board appointed, such as was proposed to be appointed by the Bill, to deal with his case, but he could not. He (Mr. O'Brien) believed this officer was harshly dealt with, but he held no brief for any of the dismissed employees. The fact, however, that a clause providing for an appeal board now appeared in the Bill showed there was some necessity for the creation of boards to deal with dismissals. The Government had explained that it had applied to the locomotive department, and that they now thought fit to make it apply generally throughout the service. The officer dismissed at Fremantle did apply to his superior officers for inquiry by a board, and was refused. He got no redress. Some people at Fremantle regarded the officer with suspicion, because certain goods had been stolen. Hardship might be inflicted in such a case, and officers should have an opportunity of clearing themselves.

THE COLONIAL SECRETARY: The amendment would have the effect, to a great extent, of specialising the measure. We should not make the Bill retrospective. The clause would take away, to a certain extent, the detail work of the Minister or the Commissioner. Railway officers had the right of appeal to the Commissioner, and they availed themselves of the privilege to the fullest extent. If this provision had been in force some years ago the work of the Commissioner, whether he was the political head or not, would have been decreased practically by one-half. Numerous appeals were carefully gone into, and railway men appealed on every possible matter. We should not make the clause retrospective for the sake of one or two cases, but in a

Bill of this kind we should be guided by broad principles.

HON. B. C. O'BRIEN: The officer referred to was one of a batch of men whose services were dispensed with. He had mentioned only one or two cases, but there were many others. We should try to be fair.

Amendment negatived, and the clause as previously amended agreed to.

Clauses 70 to end—agreed to.

Schedule, Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

REDISTRIBUTION OF SEATS BILL.

ASSEMBLY'S MESSAGE.

The Legislative Assembly's reasons for not agreeing to certain amendments made by the Council, also the farther amendment made by the Assembly on Council's amendment No. 13, now considered in Committee (previously postponed).

No. 4—Add the following new clause:—3. It shall not be lawful to present to the Governor for His Majesty's assent any Bill to amend this Act, unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively:

THE COLONIAL SECRETARY: This was a new clause added by the Council, providing that it should not be lawful to present to the Governor for assent any Bill to amend the law unless the second and third readings had been passed by an absolute majority of members of the Council and Assembly respectively. It had been urged that it was unusual in a Bill of this nature to find such a provision. To maintain the position which he had taken up as a member of the select committee, he now moved that the amendment be insisted on.

Question passed, the Council's amendment insisted on.

No. 15—Schedule of Assembly Electoral Districts [Kalgoorlie electoral boundaries as amended by the Council, cutting out the Hannans suburb from Kalgoorlie electorate]:

THE COLONIAL SECRETARY: This was an amendment dealing with the partition of the town of Kalgoorlie,

having been moved by Mr. Connolly and accepted on the understanding that if it was not agreed to in another place, which it affected, he (the Colonial Secretary) would not help in insisting on the amendment. He now moved that the amendment be not insisted on.

HON. J. D. CONNOLLY: It was to be hoped the Committee would insist on the amendment, which affected the electorates of Hannans and Kalgoorlie. If the amendment was not carried, the business people of Kalgoorlie would not have a vote in the electorate of Kalgoorlie, but in the Hannans electorate, and they would thus be practically disfranchised; for the Hannans electorate had 3,000 or 4,000 voters, of whom seven-eighths were Labourites.

HON. J. W. HACKETT: In the first instance he had favoured this amendment; but he had always held that when the two Houses differed on a matter of boundaries, the last voice should be that of the House whose province or electorate, as the case might be, was affected. This was our amendment, with which another place after full consideration declined to agree; and in the circumstances he could not vote that the amendment be insisted on.

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

Ayes	6
Noes	17

Majority against ... 11

Ayes.	Noes.
Hon. E. M. Clarke	Hon. G. Bellingham
Hon. S. J. Haynes	Hon. T. F. O. Brimage
Hon. W. Kingsmill	Hon. J. D. Connolly
Hon. M. L. Moss	Hon. A. Dempster
Hon. F. M. Stone	Hon. C. E. Dempster
Hon. J. A. Thomson	Hon. J. T. Glowrey
(Teller).	Hon. A. G. Jenkins
	Hon. Z. Lane
	Hon. W. T. Loton
	Hon. W. Maley
	Hon. E. McLarty
	Hon. B. C. O'Brien
	Hon. G. Randell
	Hon. J. E. Richardson
	Hon. Sir George Shenton
	Hon. J. W. Wright
	Hon. C. A. Piesse

(Teller).

Question thus negatived, the Council's amendment insisted on.

No. 16 (consequential on No. 15)—insisted on.

No. 13 (Assembly's farther amendment, consequential, to strike out all words after "Brown Hill")—not agreed to.

Resolutions reported, and the report adopted.

QUESTION OF PROCEDURE—ADJOURNMENT.

THE COLONIAL SECRETARY (Hon. W. Kingsmill) moved :

That the House at its rising do adjourn till 7:30 on Tuesday next.

HON. J. W. HACKETT: What would become of the Redistribution Bill?

THE PRESIDENT: Standing Order 291 provided that—

If the Legislative Assembly shall return the Bill with any of the Council's amendments on the Legislative Assembly's original amendments disagreed with, and shall insist on its original amendments, stating the reasons for so doing, or shall agree to the Council's amendments thereon with farther amendments, the message returning the Bill shall be ordered to be printed, and a day fixed for taking the same into consideration, which shall be in a Committee of the whole Council; and the Bill shall then be finally passed, or laid aside, according as the Council may agree to or disagree with the desire of the Legislative Assembly, unless the Council determines to request a conference.

He had thought that the Colonial Secretary was considering what the Government would do on Tuesday next. The House stood in possession of the Bill, and must either lay it aside or ask for a conference with another place. The Assembly had the two other Bills dealing with the Constitution, and could either lay them aside or ask for a conference with this House.

THE COLONIAL SECRETARY: To ask for a conference was not his desire. We had dealt with the Redistribution Bill in precisely the same manner as that in which the Constitution and Electoral Bills were dealt with. These were sent back to us from the Assembly, with a message agreeing to some of our amendments and disagreeing with others. We insisted on some of our amendments and did not insist on others, and we sent back the Bills, which were now in possession of another place. In the case of this Bill, consideration of which had several times been postponed, he maintained that it was in precisely the same position as the other two. This House had passed it, hence the other House was now virtually in possession of it; and his reason for moving that the House adjourn till 7:30

on Tuesday was to allow the Assembly, which met on the same day at 4:30, to have an opportunity of considering the three Bills together, so that we at 7:30 might, before proceeding farther, learn what the Assembly had done with regard to the three Bills.

THE PRESIDENT: This House must keep possession of the Redistribution Bill until it determined on the procedure to be adopted.

THE COLONIAL SECRETARY: Surely not.

THE PRESIDENT: We could either lay aside the Bill or ask for a conference.

THE COLONIAL SECRETARY: When such a message was sent here from another place for our consideration, and was considered, a message went back automatically to another place, no resolution being needed. This message No. 52 had been before us, the amendments had been considered, and a message should now go back automatically to the Assembly, giving it possession of the Redistribution Bill, and giving our answers to the Assembly's message. He would alter his motion to read—

That the House at its rising do adjourn until 4:30 p.m. on Wednesday next.

HON. J. W. HACKETT: What was the ruling of the Chair as to the position?

THE PRESIDENT: There was as yet no decision as to whether we should send up reasons for the resolutions passed with respect to the Bill. Everything was *in statu quo*.

HON. J. W. HACKETT: And the Bill would be retained in possession of this House?

THE PRESIDENT: Yes; until the House decided whether it would draw up farther reasons or would ask for a conference.

THE COLONIAL SECRETARY: Under what Standing Order?

THE PRESIDENT: Number 298, which said :—

In any case when a Bill is returned to the Legislative Assembly with any of the amendments made by that House on the Council's amendments disagreed with, the message accompanying such Bill shall also contain written reasons for the Council not agreeing to the amendments proposed by the Legislative Assembly; and such reasons shall be drawn up by a committee of three members, to be appointed for that purpose when the Council adopts the report of a Committee of

the whole House, disagreeing with the amendments in question.

THE COLONIAL SECRETARY: In that event, why were the other two Bills not treated by the House in the same manner? They had gone through precisely the same stages as the Redistribution of Seats Bill, and yet they were returned to the Assembly by message automatically.

THE PRESIDENT: No; we had returned those Bills with certain amendments and our reasons, and those Bills had not been returned to us.

THE COLONIAL SECRETARY: Neither had this Bill been returned to us. The cases were identical. We passed the other two Bills through the stage which this Bill had now gone through, but we postponed this Bill until the present. The Redistribution of Seats Bill was now in precisely the same stage as the other two Bills.

THE PRESIDENT: Those were only the first returns. This would be the second return.

HON. J. W. HACKETT: The matter was to be considered on Wednesday. He understood the reasons were to be considered for the course we had taken. Would not Tuesday suit the leader of the House?

THE PRESIDENT: For the sake of information, on the Notice Paper for next Wednesday would appear "Redistribution of Seats Bill: Consideration of Committee's report."

HON. J. W. HACKETT: Could we not meet on Tuesday instead of Wednesday?

THE COLONIAL SECRETARY: There was no objection.

HON. J. W. HACKETT: It would expedite matters.

HON. G. BELLINGHAM: Wednesday would suit country members.

THE COLONIAL SECRETARY altered his motion to read—

That the House do adjourn until 7.30 p.m. on Tuesday next.

Question (as altered) put and passed.

The House adjourned accordingly at 6.49 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 12th January, 1904.

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THE PRESIDENT took the Chair at 7.30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the **COLONIAL SECRETARY:** By-laws of North Coolgardie Roads Board.

Ordered, to lie on the table.

QUESTION—BLIND PASSENGER ON A STEAMSHIP.

HON. E. McLARTY (without notice) asked the Colonial Secretary: Whether the Government were aware that the Adelaide Steamship Company had made a regulation preventing the carrying of blind persons from the North by their steamers. The reason for asking was that on the last trip of the s.s. "Bullarra" from the North, a man who had lost his eyesight was brought on board at the Gascovne, to come South for medical treatment. The man had plenty of money and was prepared to pay his passage, and friends were ready to take charge of him on the boat; but he was absolutely refused permission to travel, the captain stating that his instructions prohibited him from allowing the man to travel. There were two men on board prepared to take charge of the blind man, so that he would be of no trouble to the ship's officers, and there was any amount of money behind him, for he had been in the service of one of the largest squatters in the North for many years. Great sympathy was felt towards the man. He (Mr. McLarty) felt the matter keenly, because a couple of years ago one of his brothers lost his sight in Kimberley, and came South on one of the steamers. He felt this a very hard case when he realised that his brother might have been treated in the same way. He hoped the Colonial Secretary would make inquiry.