

ever had paid the higher fees, which were illegal, should have a refund of the difference between the legal fees and the fees paid.

MR. DAGLISH: Time was required for investigation. He moved that progress be reported.

Progress reported, and leave given to sit again

ADJOURNMENT.

The House adjourned at 10:35 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 2nd September, 1902.

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

PRAYERS.

PAPERS PRESENTED.

By the MINISTER FOR LANDS: 1, Fourth Report on working of Statistical Office; 2, Report of Department of Mines, 1901; 3, Western Australian Government Railways Alteration to Classification and Rate Book; 4, Regulations under the Industrial Conciliation and Arbitration Act, 1902; 5, Return of Exemptions granted on Gold-mining

Leases; 6, Correspondence and papers, case of W. & S. Burges v. the Crown.

QUESTION—HELENA RESERVOIR, PARTICULARS.

HON. W. MALEY asked the Minister for Lands: 1, What was the original estimate of the average annual inflow to the Helena Reservoir in gallons. 2, What is the actual shortage for the past twelve months in gallons. 3, What is the estimated annual loss by seepage or leakage from the reservoir. 4, What is the estimated annual loss by evaporation during the summer. 5, In view of the shortage of water, does the Government propose to abandon the project for the reticulation of the goldfields towns. 6, Does the Government propose to curtail expenditure and reduce the scheme to the limits dictated by the deficiency of water.

THE MINISTER FOR LANDS replied: 1, It was estimated that 3 per cent. of rainfall would run into the reservoir, which, with a rainfall of 20 inches, would give 4,600,000,000 gallons. The average for the past three years, 1899, 1900, and 1901, was 4,294,000,000 gallons. 2, The shortage for 12 months ending 31st July last was 3,476,000,000 gallons. 3, No separate estimate has been made, but it is included in allowance for evaporation, etc. 4, The average annual loss by evaporation, etc., has been estimated at 400,000,000 gallons. 5, No. 6, No.

QUESTION—METROPOLITAN WATERWORKS, PARTICULARS.

HON. T. F. O. BRIMAGE asked the Minister for Lands: 1, The names of the members of the Waterworks Board. 2, The remuneration or fees received by each member during 1901-2. 3, The number of meetings attended by each member. 4, The rate each member pays for water. 5, The names of customers who receive water at less than 2s., and the reason for the reduced rate. 6, The cost of a meter to the department. 7, The cost to customers of fixing same.

THE MINISTER FOR LANDS replied: 1, The Mayor of Perth (or a substitute), and Messrs. W. Traylen, F. Craig, and E. C. Rennick (succeeded by W. H. Hargrave). 2, See Section 6 of "The Metropolitan Waterworks Act, 1896." 3, The Mayor of Perth, 0; Mr. W. Traylen, 46; Mr. F. Craig, 48; Mr.

E. C. Rennick, 39 (resigned 10th May, 1902); Mr. W. H. Hargrave, 4 (appointed 1st June, 1902). The Chairman attends at the office daily; but was absent during parts of February and March through illness. Other meetings are held for consultation and inspection, of which no record of attendances is kept. 4, The Mayor of Perth and Mr. F. Craig are the only consumers, both of whom pay two shillings per thousand gallons. 5, Water is supplied at less than two shillings per thousand gallons, in accordance with the Board's by-laws. 6, £2 7s. 6d. to £48 3s. 4d., according to make and size. 7, Within ratable area, *nil*; outside this area, twenty shillings.

QUESTION—METROPOLITAN RESERVOIR, BONUSES.

HON. J. W. WRIGHT asked the Minister for Lands: 1, The name of the engineer who prepared the plans, and was responsible for same, of the Mt. Eliza reservoir. 2, The names of the persons who received bonuses in connection with such plans, and the amount of the bonus in each instance. 3, The names of the persons who refused the bonuses tendered to them, and the amounts tendered in each instance. 4, Who recommended the bonuses. 5, Why bonuses were recommended to men in receipt of a regular salary.

THE MINISTER FOR LANDS replied: 1, It is understood that the designs for this reservoir were prepared originally by Mr. Faulkner, superintendent to the Metropolitan Waterworks Board. They were modified by Mr. T. C. Hodgson, then engineer in charge of the Metropolitan Sewerage and Water Supply Branch of the Public Works Department, and re-altered, in compliance with the Board's request, by Mr. C. S. R. Palmer, who succeeded Mr. Hodgson in charge of the branch. 2 and 3, Neither the Board nor the Government has knowledge of any such bonuses being offered to, or received, or refused by anyone in connection with this work. 4 and 5, No recommendations for such bonuses were made.

TRANSFER OF LAND AMENDMENT BILL.

Read a third time, and transmitted to the Legislative Assembly.

PUBLIC SERVICE ACT AMENDMENT BILL.

IN COMMITTEE.

Consideration resumed from the 19th August; the Minister for Lands in charge.

Clause 7—Repeal of 64 Vict., No. 21, Secs. 14 and 40:

HON. J. W. HACKETT: The main object of his amendment (to strike out words repealing Sec. 14) was to promote discussion. Perhaps the Minister had some remarks to offer.

THE MINISTER FOR LANDS: Dr. Hackett's amendment had been moved under the belief, apparently, that what the Government proposed was objectionable and undesirable because the rights of civil servants would be interfered with. It was pointed out at the time that the objection of the Government to Section 14 of the existing Act was that this section left the Government no power to reduce salaries once fixed. The actual salary of a civil servant must be the amount placed on the Estimates, and the Government had no right to reduce that amount. In order to make it perfectly clear that the Government would have the power to reduce the amount, he proposed to move the following amendment:—

That Clause 7 be struck out, and the following new clauses inserted in lieu:

7. Section 14 of the principal Act is amended by striking out Subsection (c.), and inserting in lieu thereof:—(c.) By reduction appearing on the Annual Estimates submitted to Parliament.

8. Section 40 of the principal Act is amended by striking out the words "two years," in line 2, and inserting in lieu thereof the words "five years."

At present a reduction of salary could be effected only by a reduction by parliamentary vote of the amount proposed on the Annual Estimates. So long as the Government could consistently bring forward a proposal to reduce salaries—that was to say, so long as the Government could bring forward Estimates which they could consistently support—no difficulty would arise. Under existing legislation the Government were practically debarred from reducing salaries, because Ministers naturally fought for and supported the Estimates which they brought in. Ministers must do this, even though they might not be in accord with the Estimates. The Government desired the right to place on the Estimates the

salaries it was in the opinion of Ministers desirable to pay to particular servants, leaving it to Parliament to decide whether the amount proposed should be passed, or decreased, or increased.

HON. J. W. HACKETT: After the statement of the Minister, he was prepared to withdraw his amendment. The hon. gentleman must believe that every member who had spoken on the Bill was as anxious for reform of the public service as were Ministers themselves. If the Government believed that existing legislation presented insurmountable obstacles, members generally were willing to assist in amending that legislation. Some of us, however, had thought that the Government were going too far in view of vested interests, created perhaps injudiciously, but certainly brought into existence.

Amendment (Dr. Hackett's) withdrawn.

THE MINISTER FOR LANDS moved his amendment as indicated.

HON. G. RANDELL: It was understood that there was need for giving the Government greater control over the conditions of the public service than the existing legislation, as Ministers interpreted it, gave them. The amendment moved by the Minister for Lands would meet the case. He (Mr. Randell) was quite prepared to accept it, as making clear and distinct the powers of the Government over the salaries of officers whose emoluments had been previously fixed. Sub-section (c.) of Section 14 of the principal Act might be held capable of two interpretations; but there could be no doubt as to the meaning of the amendment. No complaint could be made by civil servants if Parliament reduced their salaries when the exigencies of the State, or other circumstances, created the necessity for such action. The provision that a civil servant must have spent five years in the service before becoming a permanent official was not altogether to be approved. A four-years term would have been sufficient, especially in view of the circumstance that many officers had joined on the understanding that they would be placed on the permanent staff after two years' service. It was conducive to the best interests of the country that civil servants should be satisfied, and thus encouraged to do their best. The amendment proposed might not meet with entire acceptance at the hands of civil

servants themselves, but hon. members, looking at the matter broadly, recognised the necessity for giving the Government of the day a greater degree of control over the civil servants.

Amendment put and passed.

Clauses 8 to 10, inclusive—agreed to.

New Clauses:

On motion by HON. M. L. MOSS (Minister) two consequential clauses were added to the Bill:—

Section 35 of the principal Act is amended by inserting in line two, after the word "inquiry," and before the word "then," the following words: "or if no inquiry be held."

Section 36 of the principal Act is amended by striking out, in lines three and four, the words "pending any inquiry into any charge against him."

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

CHILDREN'S CONVALESCENT HOME BILL.

SECOND READING.

Debate resumed from the 19th August.

HON. J. W. HACKETT (South-West): I moved the adjournment of this debate merely to obtain fuller light on the matter. The House will remember that when the Minister for Lands brought up this proposal that a block of land should be taken out of one of the permanent reserves near Cottesloe Beach, some opposition apparently was manifested. A petition was presented to this House signed, I think, by 10 persons, protesting against the allocation of this reserve or part of this reserve, on the ground that the hospital would be obnoxious to the inhabitants of the locality. It was also understood that members should make themselves personally acquainted with the subject, as no doubt they did. For my part, I have walked over this ground, and I bore in mind all the objections that had been raised by Mr. Jenkins and others, and also the excellent object to which it was proposed to apply this land. I cannot but think, and I am sure I have the House with me in this statement, that wherever a work of charity is in progress the House should be cautious about discouraging it, or throwing cold water either upon the object or its promoters. On the other hand—and this is the point to which we

have to address ourselves this afternoon -- if a block of land equally as suitable as the one which meets with the approval not only of the promoters and founders of this charity, but the public generally (especially those who are residents in the place), can be found free from the objections which may be brought against the proposed block, it should be considered. I think it is to be lamented that steps were not taken at an earlier period to ascertain the views of people in the neighbourhood, to learn their objections, in order to see if they could be removed. As far as I can understand, the Minister for Lands, acting on behalf of the Government, has gone into this question, and he, speaking for the Government, is of opinion that the block is a suitable one; but what is of vastly more importance is that the roads board is in favour of this block, and is opposed to other blocks in the immediate vicinity that have been suggested; and what is of more importance still, I understand the ratepayers held a meeting last evening, at which, by a majority of 25 votes to 7—probably one of the Ministers will give us some information on this subject later on—they decided to support the action of the roads board in granting this block for the purpose of the Cottage-by-the-Sea. The building is free from the main objection put forward that it is exposed to all the objections which may be alleged—and which are at the very best much exaggerated — against the presence of a hospital in the locality, because I understand that every precaution is being taken in the foundation rules of this institution that nothing of a hospital character shall attach to it. For example, really ill persons will not be sent to this institution, but persons who are practically convalescent. It is provided that no person who is recovering from an infectious disease or in association with dangerous elements shall be admitted into the Cottage-by-the-Sea; and other provisions of the rules adopted by the founders of this institution, which I have had an opportunity of perusing, all go to the one main object of preventing anything of a hospital character attaching to this building. For my part, I should need strong argument, even if it were a hospital, to lead me to throw out so desirable an appeal as this. Not only

is it not a hospital, but the founders have taken every precaution in their power, as I say, to prevent a hospital character attaching itself to this Cottage-by-the-Sea. It can be no more truly called a hospital than a girls' or boys' boarding school could be called a boarding-house. Under those circumstances, having heard what has been said on both sides by the men most acquainted, as far as I know, with the exact facts, I am prepared to support the Government if the Minister for Lands is prepared to get up and say that in his judgment, in view of all the light that has been thrown upon the case, this block is the best one to be devoted to the purpose.

HON. M. L. MOSS (Minister): I desire to do no more than read a communication which has been received by the Government from Mr. Haiues, chairman of the Cottesloe Roads and Health Board. Possibly that is what the hon. member (Dr. Hackett) is referring to. It will afford some information in enabling members to come to a conclusion in this matter. It appears that a meeting was publicly advertised to be held at Cottesloe on Monday, 1st September, and a letter, forwarded to the Minister for Lands, is the outcome of the meeting, as follows:—

With regard to the objections that have been raised by certain persons signing a petition presented to the Legislative Council by the Hon. C. Sommers against the granting of Lot 70 for the above purpose, I have to inform you on behalf of the ratepayers of Cottesloe that some of the signatures have been obtained owing to a misunderstanding. Mr. E. S. Peate writes to me that he understood the building was for a hospital, and he thought Mr. John Stuart, who is at present in England, would object. Attorneys for Mr. John Stuart (Messrs. T. Jolly and F. W. Collett) informed me that, being unaware of the views of their principal on the matter, they thought it best to object to any change in the existing conditions in the immediate neighbourhood of his property. Mr. A. B. Bunning, an attorney for Mr. Robt. Bunning, informed me that he signed because he was asked to do so, but admitted that he did not know if his brother owned land in the vicinity. Mr. James Cowan informed me his only reason for signing the petition was that he considered the area of the land offered too much, one acre being in his opinion sufficient, but clearly stated he had no objection to the Cottage-by-the-Sea being erected.

HON. A. G. JENKINS: That is not correct.

HON. M. L. MOSS: Mr. Haines signed his name to it. That letter continues:—

Mr. John James, Mrs. J. C. James (wife). He informed me he had no objection to the Cottage-by-the-Sea, but considered that Lot 61 was more suitable, and also that the rate-payers should be consulted before their reserves were given away.

HON. A. G. JENKINS: That is not correct.

Mrs. R. Carmichael, H. Schrumm (executor of late J. Carmichael). I have good reason to believe she offered her own house to the committee to rent for use as a Cottage-by-the-Sea, her property is the nearest to Lot 70, being opposite, the other side of Pearce street; her objection seems unreasonable. Mr. F. Bartlett is the owner of two small allotments at present unimproved. Mrs. A. L. Jenkins' property is situated nearly a quarter of a mile away, "as the crow flies."

HON. A. G. JENKINS: That is not correct, like most of the statements.

HON. M. L. MOSS: There is an excellent plan accompanying the letter, which may also be useful to hon. members. [Plan showing three circles, respectively 5 chains, 10 chains, and 15 chains radius from block 70.] The letter proceeds:—

The board have submitted the whole question to the ratepayers at a public meeting specially called, and the meeting has approved of the action of the board, as may be seen by the enclosed proposition and amendment. The board are not in favour of any other than Lot 70, it being a corner block of the recreation reserve and on a made road. There being a local board of health in the district no infectious cases would be allowed to be received in any building not licensed by them. The board are of opinion that the erection of the Cottage-by-the-Sea in this district will be a distinct advantage to property values in Cottesloe. I enclose a letter from Mr. E. S. Peate and also from Mr. F. A. Moseley, both of which will explain themselves.

The letters are here, if hon. members would like to hear them.

I desire to call attention to the fact that those persons who are most strongly opposing the granting of Lot 70 persist in referring to the proposed building as an hospital. This probably is the cause of their obtaining some of the support they have so far received. I forward you herewith a plan of the district showing in yellow the property of those who have signed the petition. The several residences erected in the district are shown by a red circle. Generally, the plan shows that portion of the Cottesloe District nearest to Lot 70. My board trust you will experience no further difficulties in obtaining the consent of Parliament to the granting of Lot 70.

This letter is signed by Mr. O. L. Haines,

chairman of the Cottesloe Road and Health Boards. Accompanying the letter are the following resolutions:—

Mr. R. W. Pennefather moved: That this meeting indorse the action of the Cottesloe Roads Board approving the grant of Lot 70 to the Trustees of the Cottage-by-the-Sea. Mr. Thos. Hartley seconded.

Amendment.—Mr. A. G. Jenkins moved: That this meeting, whilst expressing its sympathy with the object of the Cottage-by-the-Sea, enters its emphatic protest against the granting of Reserve 70; it being of opinion that there are far more suitable reserves on the sea coast available for the above object. Mr. Carter seconded.

Amendment lost: 7 for, 25 against.

Motion carried by a large majority.

I have also a letter from Mr. Moseley, and a letter from Mr. Peate.

HON. E. McLARTY: Did Mr. Moseley and Mr. Peate sign the petition?

HON. M. L. MOSS: Mr. Moseley's letter is very short:—

Cottesloe, 23rd Aug., 1902.

Dear Mr. Haines,—I am sorry to hear that objections have been raised to the setting apart of the reserve at the corner of Swanbourne Terrace and Pearce Street for the purposes of the Children's Cottage-by-the-Sea. To my mind the objections appear to be groundless, and I cannot therefore believe they will prevail. The establishment of the present Convalescent Home has in no way hindered either the acquisition of land or the erection of residences in its immediate neighbourhood, and I should be much surprised were the value of property near Pearce Street to fall if the original proposal is adhered to. I have no fear that an institution of this description on the site suggested will jeopardise the health of the community.—Yours faithfully, F. A. MOSELEY.

Mr. Peate's letter reads as follows:—

Fremantle, 26th Aug., 1902.

O. L. Haines, Esq.

Sir,—Following our conversation re Cottage-by-the-Sea at Cottesloe Beach. I was led to sign the petition against such on the information that it was an hospital to be erected, and the attorneys for the owner of the property which I at present occupy had signed also, they deeming it against the interest of their client. We have an hospital in the vicinity. —Yours faithfully, E. L. PEATE.

The effect of the letter is that Mr. Peate says he was led to sign the petition on the assumption that it was a hospital.

HON. W. MALEY (South-East): I am somewhat reluctant to speak again on this question, having already given my views to the House.

THE PRESIDENT: I think the hon. member has already spoken.

HON. W. MALEY: Not on the second reading. In this case a permanent reserve has been held for some time in the district of Cottesloe by the Government for the benefit of the residents. Persons have built substantial houses and made their homes in that locality, having reasonable ground to believe that a permanent reserve, the property of the State, would be kept for the permanent use of the residents of the locality. I consider it a reasonable proposition that a permanent reserve should be retained for and restricted to the special purposes for which it was made. If we allow our permanent reserves to be turned to other purposes than those originally intended, without making due inquiry, without giving the public a chance of expressing their views on the subject, then, I think, we are doing wrong. When I previously addressed the House on this matter, I did so to urge that the public, and more particularly the ratepayers affected, should be given an opportunity of expressing their views. Since that time a petition has been presented to the House, signed by all the residents, I believe, of the neighbourhood concerned; and I contend that the residents who have spent their money in the locality are the first persons to be considered in a matter of this kind. I, for one, as a member of the Legislative Council, refuse to listen to what is said by people outside. In my place in this House, I do not propose to pay attention to roads boards, or church leaders, or indeed to any particular section of the community. If the roads boards are to have full control of permanent reserves, are to be at liberty to turn them, at their own discretion, to what purpose they like, then our sitting here as members of the Legislative Council is a mere farce. I do not regard the expressions of opinion which have been read out as in the nature of a compliment by any means. It is no compliment to the House that meetings should be held while discussion of a subject is pending here, with a view of influencing the vote of the House on that subject and pressing the vote in any particular direction. If anything could put me against the Bill—

HON. J. W. HACKETT: You were against it from the first.

HON. W. MALEY: No. You are wrong, as usual.

HON. J. W. HACKETT: Your speech shows it.

HON. W. MALEY: If you will read *Hansard*, you will find that in my previous speech I expressed myself as opposed to the Bill being rushed through in one day. That is the stand I took. I will not have words put into my mouth by you or by any other member of the House. I say that this is a question for the residents affected to decide. I was invited to attend the public meeting held at Cottesloe. I am not a resident of the district, although I have considerable property there. I should be ashamed to go to a meeting of that kind and raise my voice against the interests of the people who have made the place what it is. We do not know who attended that meeting. I am informed that those who attended were not ratepayers; at all events we have no proof that ratepayers attended. We have the opinion of Mr. Pennefather; but that gentleman does not, and never did, reside in the subdivision affected. He resides some distance away. It is no credit to Mr. Pennefather that he was present. I venture to say that had the site of the hospital—and I persist in calling the institution a hospital—been selected near Mr. Pennefather's residence, that gentleman would have been the first to cry out, whether the site were chosen on a permanent reserve or on any other area of ground. Dr. Hackett advises us not to throw cold water on the project of the Cottage-by-the-Sea. I have not heard any hon. member say anything whatever which can be construed into a process of throwing cold water on this or any other philanthropic scheme. There is no member of the House but will have a brick in the Cottage-by-the-Sea and will take a lively interest in the welfare of the children of this State. If children have to be sent from the goldfields to the coast, however, it is for the benefit of their health. I take it that the Cottage-by-the-Sea will not be a home for the pauper children of the State, but rather a home for children who are weak through exhaustion consequent on climatic disadvantages encountered in the interior. The Cottage-by-the-Sea is a hospital; the children sent to it are sick and ailing; they are children who have been sent to the coast suffering from what, if not

checked, might become a serious illness, and what probably might yet become a serious illness although the children are sent to the coast. Where sick and weakly children are gathered together in numbers, an epidemic may easily arise; and what will be the result of that? It is patent that the result must be the infliction of grievous injury on the residents of the neighbourhood. A disease is likely to take a firm hold on victims already weakened. The proposal to locate the Cottage-by-the-Sea in this locality is simply equivalent to establishing a hospital there. We are told that the site has been chosen by the roads board and confirmed by the Government because a road has been constructed to that site. But by whom has that road been constructed? By a private individual at his own cost. I may mention that the present road from Mr. Jenkins's residence to the Government reserve on which this hospital is to be built would not have been constructed but for the fact that it runs over private land, or over what was private land. It would not have been constructed had not I myself given the land for the purpose. One man has given the land for the road, and another has made portion of the road. These things having been done and the place having been made what it is, the Government, at the dictation of the roads board, propose to step in and say, "We will take this particular site, and no other, for the hospital." I contend that the adjacent block is on all-fours, so far as convenience is concerned, with the particular block selected, except as regards the construction of a road. Thus the reasons for rejecting the site proposed become more cogent. In this State, we do not wish to discourage private enterprise; we wish to encourage it. The road has been constructed; and now the proposal is to throw more traffic on it, to cut it up, and to destroy it. Again, considering the matter from the point of view of the benefit of the children, I maintain that isolation is the best thing for the children. The Cottage-by-the-Sea should not be near private residences. If a site were chosen a few chains farther away from the street, the Cottage would have an improved reserve on the one side and a Government reserve on the other; and what could be better than a Cottage-by-the-

Sea with a reserve on three sides and the sea in front? I consider it absurd and improper that all this trouble and friction should be created, when, by the exercise of a little consideration and conciliation, the matter could be quietly adjusted. The Cottage could be put in a far better position, with a road leading direct to the railway crossing, and direct from the railway crossing to Perth. I may call the alternative site unique; certainly, it is far superior to that proposed by the roads board and agreed to by the Government. No one wants to throw cold water on the scheme; everyone wants to encourage it; but we ought to see that the proposed institution be placed in the position where it will be most advantageous to those for whom it is intended, and at the same time will do the least injury to the public. I believe Sir Arthur and Lady Lawley inspected a site near Shenton road, with which they were perfectly satisfied. I, for my part, would rather see the cottage on the block I refer to, though I know certain hon. members hold that the site selected by Sir Arthur and Lady Lawley is the best. I shall leave the matter in the hands of the House by moving as an amendment to the motion:—

That the word "now" be struck out, and "this day six months" inserted in lieu.

HON. G. BELLINGHAM: I second the amendment.

HON. C. SOMMERS (North-East): If it is not too late, I ask the leader of the House whether he cannot adopt the proposition made to him to accept Reserve No. 61 in lieu of No. 70. It appears to me that a certain amount of feeling has been imported into this debate, and it is to be deplored. We all desire to see this Cottage-by-the-Sea erected, and I as a goldfields member particularly wish there to be not only one Cottage-by-the-Sea but as many as can be erected in the near future, not only at Cottesloe but other desirable sites on the coast. We all desire this, and the only question now that appeals to the House is as to whether Reserve No. 70 or No. 61 will be accepted by the House. It would be a pity to throw this Bill out. I would again ask, as I did on the second reading, the hon. gentleman to give way on this very small difficulty, and accept another reserve in lieu. Members who perhaps would vote

for throwing out the Bill if Lot 70 were adhered to would readily support the Bill if Lot 61 were accepted. Block No. 70 has been selected by the Roads Board and by the Government, but there are five more blocks adjoining, to the selection of either of which the residents would have no objection whatever, and if Lot 61 were chosen all opposition would cease.

HON. G. RANDELL: That is farther along the coast.

HON. C. SOMMERS: It is farther along the coast. [Position on plan pointed out.] If the hon. gentleman would only agree to accept Block 61 in lieu of Block 70, all opposition to the Bill would cease, and the matter would go through without any farther delay. The only objection to Lot 70 is that it is too near the houses, and farther isolation would be given if the building were erected on an adjoining reserve. That is a very small matter, and we might meet the wishes of those residents by effecting this slight alteration in the Bill. If there is no road, it will only be a matter of a few chains, and it will be connected with the existing road.

HON. G. RANDELL: How will it affect the reserve for recreation?

HON. A. G. JENKINS: Not more than it is affected at present.

HON. C. SOMMERS: It cannot alter that more than at present.

THE MINISTER FOR LANDS (Hon. A. Jameson): In reply to the remarks the hon. member has put forward, I may say I would like the position in this matter to be clearly understood. This is not a party question or a Government question; it is simply that the desire for a certain block of land has been made known to the Minister for Lands. The ordinary course in regard to a Class A reserve is to refer to the local body—the local roads board in this case—to ascertain whether such body has any objection to the land being granted. In this case not only has such local board acquiesced, but I understand there was a public meeting where the great bulk of the rate-payers present, some 32, approved of this land being granted for this specific purpose. Therefore it rested with myself to bring in the measure with a view of providing this site for the convalescent home. Of course it is unnecessary for me to go into the reasons again. I have already

spoken on this Bill, on the second reading, and it is only for me to reply to what members have brought forward. I may say at once that I am perfectly prepared, if the local board should be willing to grant Block 61, and the committee of the Cottage-by-the-Sea should be willing to accept it, to have the Bill amended; but supposing the local body will not agree to this, will members then support me in my Bill? [MEMBER: No.] Then it is all on one side of the question.

HON. A. G. JENKINS: It is one-sided at present.

THE MINISTER FOR LANDS: If I endeavour to get the consent of the local body, and they do not agree to give their consent, surely members will waive all objection to the Bill. I think that is only reasonable. This question has really been fully gone into. Dr. Hackett said that so long as I gave an assurance that, in my personal opinion, the building would be no injury or detriment to the public health or the health of the community in that district, he would support the Bill. I distinctly have no hesitation in doing so. Indeed, as Minister for Lands I should not have brought the Bill before the House at all had I thought it would interfere in any way with the vested interests of any individuals, or certainly with any member of this honourable House. I can assure members it does not at all interfere with the vested interests of anyone. The building would be a most desirable one in appearance. I have here a photograph showing what a very charming residence it would be. Those going to it would be small children, run down in health and coming from our goldfields and other parts. The goldfields members, the goldfields population, have very largely subscribed to this object. I think it is very undesirable indeed that we should in any way interfere with such an excellent and such a humanitarian object as this. So far as being a hospital is concerned, of course every member of the House knows that a hospital is a building for treating those who are injured, wounded, or sick; but there is no such intention in this case. The children are absolutely convalescent, that is to say they are convalescent from any sickness they may have been suffering from. There may be many children in the Cottage who have had no sickness. We do not find that

the Convalescent Home, which is a few hundred yards from this proposed building, has been in any way objectionable to the community. There are houses quite as close, if not closer, to the Convalescent Home. I very much regret that my friend, Mr. Jenkins, should have taken up this view at all. I really think it is more a question of sentiment than of actual interest. I believe that he is in earnest in this matter, and feels that the institution will be a detriment to him; but I am absolutely sure from my professional point of view he is mistaken, and I hope members will really see their way to support this Bill. The institution would be a most useful one to the community, and in no way a detriment to the health of any individuals within a stone's throw of it.

SIR E. H. WITTENOOM: Why do not you join it to the Convalescent Home?

THE MINISTER FOR LANDS: That is a matter I have nothing farther to do with. I made that suggestion at one time to the committee, but it does not meet with the approval of the committee, and there are objections to a children's convalescent home being attached to a home for adults. It has been thought objectionable in the old country. There are some institutions in which it has been done, but objections have been raised. I have nothing to do with that. I have merely to bring forward the Bill.

HON. A. G. JENKINS (North-East): I hope the House will pardon me for again speaking in this connection, but my excuse must be that I feel so strongly in the matter, and there is a principle at stake. Not only so, but the personal interests at stake are large. I would, first of all, like to give the House the facts of the case regarding the meeting last evening, over which such a fuss has been made. The meeting was called by the roads board, who had done what appeared to be an illegal act; that is, they granted a reserve which was a recreation reserve, a Class A reserve. They granted that for the purpose of a convalescent home without ever consulting the ratepayers in the matter, and in a manner which was not, to say the least of it, correct. Objection was taken to it by some ratepayers, and they called a meeting to substantiate their own action. I may say that the opponents of the

meeting actually took no part in canvassing in order to get people to attend. They were satisfied with the justice of their own case. I as one of the leading opponents can say that I took no part whatever in working up the meeting against the Cottage-by-the-Sea, and I know my fellow opponents did not do so, but I think some influence was brought to bear on the other side. There are some hundreds of ratepayers on the roll, and of that number only 32 turned up at the meeting last night. A vote was taken that the action of the roads board be confirmed. Thirty-two persons were present, of whom 25 voted for and seven against the motion. Of the 25 who voted for the motion five were members of the roads board; that is, five members of the roads board voted at a public meeting to uphold their own action. That was not quite the thing, to start with, so we can take those five away. That will reduce the number to 20. I undertake to tell the House that out of that 20 there were not 10 who were ratepayers, or who had any stake in the place at all. Is it fair that this should be taken as an expression of the opinion of the residents of Cottesloe? As I have said before, every property holder in the proximity of this reserve is against the reserve being granted. Who are the people deserving of most consideration? The people who live near the reserve, or a self-appointed committee of the Convalescent Home? That is the issue before the House. It is not the roads board, although the roads board have given it, but a committee of this hospital, not elected by the subscribers, a committee very deserving of commendation for aiding such a splendid institution as this will be; but the residents down there do not want this reserve to be granted. Whose interests are the House going to consider? The interests of that committee, or the interests of the residents surrounding that reserve? It is not as though it were the only reserve available. There are other reserves in that location which may be given, to which none of the residents down there will offer the slightest objection; but they do offer objection, and rightly so, to the transfer of the reserve which it is at present proposed to grant. If we go away from this reserve altogether, at the bottom of Shenton road, Claremont, there

are 70 acres of reserve, and I understand from the chairman of the roads board, Mr. Horace Stirling, that Lady Lawley selected a site there, which she thought absolutely the best available for the hospital. Apparently, however, some influence was brought to bear, and she selected a site closer to the spot where the new station on the Fremantle line must eventually be placed, near Congdon-road or Eric-street. The Shenton-road site will be closer to the railway station than the site which the committee at present desire to secure. There can be no harm in supporting Mr. Maley's motion, because the only effect of doing so will be to let the matter stand over. I undertake to say that the committee have not at the present time sufficient money to build and furnish a hospital. We have seen the result of hasty and ill-advised grants of blocks of ground to committees who have not sufficient funds. It is only necessary to call attention to the Home of Peace. We know all the fuss there was in connection with that movement; how everybody was canvassed; how committees were formed; how Lady Smith took the matter up; how everybody was going to do his or her best. Lady Smith went away, however, and the Home of Peace, although it was built, has never been opened to this day. Are we to make a similar experience in connection with this Cottage-by-the-Sea? The suggestion of Sir Edward Wittenoom strikes me as being the best yet made. Why should not the committee of the Cottage-by-the-Sea place their institution alongside the existing Convalescent Home, where there is a large area of ground affording ample room for the children?

SIR E. H. WITTENOOM: That would save expense in management.

HON. A. G. JENKINS: Yes. The committee, however, adopt a stand-and-deliver policy, saying "We will have this block, or none at all." Every endeavour has been made to secure the block selected. The Minister has been seen, and efforts have been used to find another site; but the committee must have the particular block already chosen. That is not a fair way to deal with a question of this kind. It is all very well to say that the Cottage-by-the-Sea is not a hospital, that diseases will not spread, and that

kind of thing. We know, however, that there have been dozens of cases of typhoid patients sent to the present convalescent home suffering a relapse. Now, children recovering from the effects of typhoid fever may be sent to this hospital. I urge on the particular attention of hon. members the circumstance that residents in the neighbourhood affected have bought land and built houses on the assumption that the reserve in their neighbourhood was to remain a park, and was not to be diverted to other purposes. Therefore, I maintain that, other reserves being available, and the residents, who are large investors in the locality, having protested, hon. members should pay attention to the protest made. Certainly, this House should be the last to interfere with acquired rights. To my knowledge, extraordinary pressure has been brought to bear to induce hon. members to vote for the Bill; and I maintain that such pressure is not fair. I contend that certain members have been placed in a false position, because it has been made to appear that they are opposing the Cottage-by-the-Sea movement. As Mr. Maley has said, not one member of the House opposes that movement. All of us have subscribed our little towards the object, and it is not fair to attempt to throw the responsibility for the fate of the Bill on hon. members who may vote against the second reading. The fate of the measure, if it be defeated, will rest with the committee, who refused in any way to meet the wishes of the residents of Cottesloe Beach. It has been publicly stated to me that, despite all my efforts, this Bill will be carried. Well, if the measure is carried, I cannot help it; but I do claim that the influences which have been brought to bear should not have been used. I do not wish to detain the House longer. I hope hon. members will consider the position, and will pay regard to the interests of the people who have spent large sums of money and who have so acquired rights. I hope hon. members will carefully weigh the whole question, and will give those whose rights are affected the same fair play as members themselves would expect in similar circumstances.

HON. S. J. HAYNES (South-East): I do not wish to give a silent vote on the matter before the House.

I assure hon. members that I have had great difficulty in coming to a decision. However, I am, and always have been, opposed to interference with vested rights. Class A reserves, in my opinion, should not be interfered with except under extreme circumstances. The objects of the institution here in question are such as meet with my entire sympathy, as I am sure they meet with the entire sympathy of every hon. member. If any purpose justified interference with Class A reserves, it would be the purpose to be served by the Cottage-by-the-Sea. I have listened carefully to hon. members who have spoken, to learn whether any other suitable site can be secured. Mr. Jenkins says that the wishes of the opponents of the Bill in its present form would be met if block 61 were selected, instead of block 70. That argument, however, does not appeal to me in the least, because in adopting the alternative we shall still be interfering with this Class A reserve. Mention was made of a suggestion by Sir Edward Wittenoom, which I regret I was not present to hear. The suggestion seems to me an admirable one. After considerable difficulty, I have arrived at the conclusion that I must vote against the second reading. I am exceedingly sorry that in connection with a movement of this kind the roads board authorities and the residents cannot arrive at an agreement. I should vote for the Bill if it could be shown that no other side than that selected is available in the locality. I am satisfied, however, that another can be found. Mr. Jenkins laid great stress on the fact that vested interests are affected, and I certainly desire to respect vested interests. Every member should argue the question by putting himself in the place of those affected. Although it has been stated by the leader of the House that the institution involves no danger to health, and that objection to the site is merely sentimental, still sentiment carries its own weight. I am perfectly satisfied that another site can be found, and until I am convinced to the contrary I shall have to oppose the Bill.

HON. G. RANDELL (Metropolitan): I propose to say but a few words on the measure before the House. Like Dr. Hackett, I have visited the site for the purpose of making myself fully ac-

quainted with all the circumstances, and in order to see how far the establishment of the institution on that site will affect residents in the immediate neighbourhood. After a personal inspection of the site, and remembering the purpose for which the site is desired, remembering also that the roads board, the Government, and the committee who have the matter in hand are all agreed that the site selected is the best obtainable, I certainly fail to understand the reason of the opposition. I have puzzled my brains a good deal to discover what possible objection there can be to the establishment of an institution of this kind in the place selected. I am not acquainted with the block of land to which Mr. Moss has referred, block 61. and therefore I am not able to say whether it offers the same facilities as the block selected, No. 70. I take it, however, that unless very good reasons are given—and no reasons have been given satisfactory, to my mind, which is unprejudiced on one side or the other—hon. members will agree that we should fall in with the views of the local authority, the views of the Government, and the views of the persons interested in the institution. The position selected is a nice one; I think it is about the most level on the reserve, speaking simply with knowledge gained by using my eyes—I did not go to the other end because all I knew of as being in question was block 70, and the effect of its selection on property in the neighbourhood. I do not see how the erection of the Cottage-by-the-Sea on block 70 can prejudicially affect adjoining properties. If I were living in the locality, I should be glad to see a building placed on the opposite side of the reserve, even if it were a hospital.

MEMBER: A small-pox hospital?

HON. G. RANDELL: It is not likely that infectious cases will be sent to the hospital. The small-pox hospital is situated far away from habitations. The hon. member interjecting knows as well as I do that no children afflicted with infectious diseases will be sent to this Cottage-by-the-Sea. The inmates of the institution will be simply children run down, as it is called, by long residence on the goldfields and the unfavourable climatic conditions prevailing there. If the signatories to the petition signed the document under the belief that infec-

tious cases would be received at the institution, they were greatly mistaken. We have the assurance of Dr. Hackett that the rules and regulations to be provided will safeguard everything in that direction, and we have also the opinion of the leader of the Government that no danger of any kind can possibly spring from the establishment of the Cottage-by-the-Sea. Mr. Jenkins's own house is a considerable distance away from the site. The nearest residence is that of Mrs. Carmichael, and between her house and the Cottage there intervenes, I understand, a two-chain road. It is not likely that the committee will build at the very corner of the block; probably they will build towards the middle frontage, on Swanbourne Terrace.

HON. G. BELLINGHAM: Why cannot they build on the next reserve?

HON. G. RANDELL: I cannot say. I do not know whether the next reserve affords a suitable site. The hon. member says it is all right, but he is a prejudiced witness, if I may be allowed to say so. [MEMBER: You are too.] He has confessed here this afternoon that he is an interested person, therefore he is prejudiced. I am not an interested person. I think the reply to Mr. Jenkins a good one, and that the hon. member ought to have responded to it that if the roads board would consent—

MEMBER: The roads board is one man.

HON. G. RANDELL: I am confident that if the inhabitants of Cottesloe were polled, three-fourths would vote in favour of the hospital. I have that on very good authority, and I am constrained to believe it. They are interested in the progress of Cottesloe and the district; and I think the more institutions and buildings are put in Cottesloe or any other locality, the more rapid will be the development of that district; especially for purposes such as this, which commends itself to every member. Certainly, I think it should receive the support of members from the goldfields, because it is children from the goldfields whom the institution is mostly intended for. I contend that people will largely avail themselves of the opportunity of sending down children from the not altogether comfortable and pleasant conditions on the goldfields to enjoy the bracing influence of the sea air, to bathe in the sea, and to paddle

about on the beach. I am quite willing for everyone to enjoy his own opinion, as well as I enjoy mine, but from a personal visit to the site I am satisfied that no property will be injured, and that there is not the slightest possible chance of infection, because no infectious diseases will be sent there, and I think there are no good and sufficient grounds upon which opposition to the selection of this site can be given. I do not think I need say any more. I have stated my reasons fairly, I think, and clearly I hope, and I must say that if the Government press the motion I shall vote with them. I must do so.

HON. G. BELLINGHAM (South): After the remarks of Mr. Sommers in reference to the exchange of block 61 for block 70, and seeing that the Minister could not pledge himself with reference to the exchange of the blocks, I would like to point out, on referring to that plan, that on the opposite side to reserve 70 there is private property, whereas on the opposite side of block 61 there is a road, and then you come to another reserve, a fenced block, for recreation purposes. To my mind the opposition that is being raised in this House, and waste of time on the debate on this Bill, have been caused through the obstinacy of the roads board at Cottesloe. The meeting held last night, and the vote recorded there, to my mind do not affect the position at all, because the situation on Cottesloe Beach only occupies a very small portion of the Cottesloe roads board district, and all the houses there are good substantial properties, well laid out grounds and large blocks, and the interests of the majority of those in the roads board district are not affected by this reserve at all. It affects a very small portion of the inhabitants of that portion of Cottesloe. As Sir Edward Wittenoom said, why could not this home be put alongside the present Convalescent Home at Cottesloe? I think that is a very admirable suggestion. Again, it has been pointed out that a site had been selected by Lady Lawley at the end of Shenton-road. There is a large reserve at that point where every facility could be obtained by means of a good macadamised road that is being constructed at a large cost by the roads board, and there children would have

abundant freedom, and would not inconvenience any of the neighbours or property holders at all. With regard to this place not being a hospital, there is no doubt that very often children sent from the goldfields for partial recovery or to pick themselves up carry germs of disease which do not develop until a week or a fortnight afterwards, and there is danger in putting a hospital down among a lot of good property holders' residences, and in a neighbourhood in which children reside.

HON. G. RANDELL: What about Perth Hospital and Fremantle Hospital?

HON. G. BELLINGHAM: Some people like to live near the Perth Hospital or the Fremantle Hospital, but I think that if you ask the majority of people you will find that they get as far away from a hospital as they possibly can. I think this House has given every consideration to the Bill. We have given every latitude and afforded the roads board every opportunity to meet Ministers in this House and try to select a site. I am certain sites are available, and could be selected, if the roads boards were not determined, and had not made it their aim to pick out this site—for what reason I cannot tell. If the Bill is thrown out, the members of this House are not the people who should take the responsibility. I shall certainly vote for the Bill being read this day six months unless the Minister can see his way to give some guarantee that he can meet us and select a different site.

HON. E. McLARTY (South-West): I have been trying to get all the information I can, and have listened to the arguments of members for and against this site. I feel very little sympathy with Mr. Jenkins. If I were placed in the same position as he is in with respect to property for a public reserve, class A reserve, I should feel as he feels, very sorry about losing it; but I am somewhat puzzled, after hearing the letters Mr. Moss read this evening, about some of those gentlemen who signed the other day and said they signed under misapprehension. I am also puzzled in regard to one gentleman whose name was mentioned, and who spoke to me strongly on the subject only a few days ago, and emphatically protested against this Cottage-by-the-Sea being built on block 70. To-day he appears to have no ob-

jection at all. I have no interest in this place, except to do what is right and best for the majority, and I should be glad if the Minister and the roads board at Cottesloe could see their way to adopt a suggestion that has been made to take block 61 instead of block 70. There can be no objection to that in any quarter. Why not take it, providing the block is as suitable as the other? As to there being no roads to it, I do not think that is a great obstacle. Surely we could very soon make a road. It is only a matter of a few chains. They are both corner blocks, and both front the sea. I think if that were the only objection by the roads board, it would be a very small one indeed. I am not going to support the motion for the Bill being read this day six months. I am very anxious to see the Cottage-by-the-Sea erected as soon as possible, but if a site as suitable as block 70 can be obtained without doing injury to anyone, I should certainly support that. I am decidedly not in accordance with those hon. members who spoke of this Cottage-by-the-Sea as a hospital where cases of all kinds of diseases would be taken. Even if it were so, if that were a fatal objection, the same would apply to block 61. I think the reasons given by Mr. Jenkins against block 70 have been very strong and conclusive; but at the same time if any good reasons can be shown why block 61 would not serve the purpose, and why the cottage should not be built there, I feel that I must support the Government in their desire to have this place built on block 70. I can only express the hope that some arrangement will be arrived at with the roads board and the committee, and that they will be able to select another site. It appears to me that the meeting at Cottesloe last night was not considered very important, seeing that only 32 persons attended out of such a large population, and that some of those 32 were not rate-payers at all. It does not look as though they took much interest in it one way or the other, but I am inclined to think that when this cottage is erected many who now object will be pleased to see it, and that instead of being detrimental to the locality it will be of great benefit. It is intended to have a very nice building, and it will bring people to the place. I hold it will be an advantage even to those who

have residences near. I can only say again that I hope some understanding will be arrived at whereby another block can be selected.

HON. W. T. LOTON (East): It seems to me that there is a general desire in this House that this Bill shall not be thrown out, at all events if we can arrange as to a proper site; and looking at the plan it appears to me that one block is just as good as the other. With the object of giving time for farther consideration and communication with the roads board, I move the adjournment of the debate.

MEMBER: Supposing they object?

HON. A. G. JENKINS: We have a full House to-night.

HON. W. T. LOTON: Is it your desire to go on with the discussion? My object in moving the adjournment of the debate is to see whether we can possibly come to a conclusion by an exchange of grant. The Minister has said he has no objection, if he can get the consent of the roads board and the people in the vicinity. I formally move the adjournment of the debate to this day week.

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

HON. A. G. JENKINS: There is no objection to an adjournment; but I do not want this Bill forced to a division in a small House. Provided the leader of the Government will give me an undertaking that he will not force this Bill to a division with a small House, I will willingly fall in with the adjournment. We have about 25 members present who have practically all made up their minds, and who are prepared to go to a vote. I do not want to come here some afternoon when ten members are present, and find this Bill forced to a division. If the Minister will give that undertaking, which I certainly consider fair in view of the importance of the subject, I shall willingly agree to the adjournment.

SEVERAL MEMBERS: Take the vote to-night.

THE MINISTER FOR LANDS: I have no objection to giving the undertaking asked for. I consider that the subject, having created so much interest and having been debated by so many members, should be decided by a full House. In the circumstances, I deem it only proper that the division should be taken in a full House.

Motion (adjournment) put and passed, and the debate adjourned.

JUSTICES BILL.

Received from the Legislative Assembly, and, on motion by the MINISTER FOR LANDS, read a first time.

RAILWAY AND THEATRE REFRESHMENT ROOMS LICENSING AMENDMENT BILL.

Received from the Legislative Assembly, and, on motion by the MINISTER FOR LANDS, read a first time.

ADMINISTRATION (PROBATE) BILL.

SECOND READING.

HON. M. L. MOSS (Minister), in moving the second reading, said: This is practically the same measure as was passed through this House during last session. From that measure the present Bill differs in only one or two points. It will be recollected that the measure passed last session contained a clause empowering executors and administrators to claim commission for services rendered by them in the administration of deceaseds' estates. That provision has been omitted from this Bill, and I am sorry it has been omitted, because I have all along considered that the duties imposed on executors and administrators certainly merit remuneration. Under the law as it now stands, an administrator is entitled to remuneration under the old Supreme Court Act, 24 Vict., No. 15, and a trustee for a settlement of land is also entitled to commission for his services. However, the provision in question seems to have encountered a considerable amount of opposition in another place; and it has, therefore, been omitted from this Bill. The measure is one which I consider is urgently required. It is absolutely necessary for the proper administration of that portion of the law which it comprehends. In fact, with the exception of the small amount of legislation contained in the Act I have mentioned, 24 Vict., No. 15, which gives the same power to our Supreme Court to grant probate and administration as is exercised by the court of probate in England, our statute book contains nothing regulating this most important branch of the law. While this Bill contains a code of all the rules

relating to the granting of probate of wills and administration of intestates' estates, we are at the present time in a most peculiar position. The old Act confers on our Supreme Court simply the jurisdiction exercised by the court of probate in England in the year 1861, and the rules on which the court of probate in England worked 30 or 40 years ago are the rules which regulate proceedings in our court at the present time. In this connection, it may be interesting to hon. members to learn that there is not a set of these rules procurable in Western Australia. It is curious that for many years our courts have worked under the rules contained in an old edition of *Cooté and Tristram's Probate Practice*, published in 1861. Therefore, it appears that for many years our probate administration has been based on rules which are not in force. The Bill before the House is, in a large measure, a copy of an Act which has been in force in New South Wales for many years. The legislation proposed will, I think, be considered both by the legal profession and by the general public a great improvement on the present practice of regulating these important matters. As a Bill of a similar nature was before the House previously, the present measure does not require from me so many words of recommendation as would otherwise be the case. I may direct the special attention of hon. members to Clause 14, which makes an alteration in the existing law. The first part of the clause reads:—

A husband or wife shall be entitled, on the death of the other, as to the property as to which he or she dies intestate, to the following shares only:—(a.) When the net value of the property of the deceased does not exceed the sum of five hundred pounds, to the whole of such property;

HON. J. W. HACKETT: Is that irrespective of debts?

HON. M. L. MOSS: No. The clause says "net value." It is intended that if, after the creditors have been paid, the net value of an estate is under £500, the widow shall get the whole of the estate. If the debts swallow up the estate, of course the widow gets nothing. Under the existing law, the widow gets one-third of the estate, and the next of kin get two-thirds. This state of things necessitates, in connection with small estates, expensive applications to authorise the widow to

use the other two-thirds to maintain the family. It has been pointed out to me by Mr. Haynes—it was also stated during the debate which occurred last session—that in the majority of cases the widow acts illegally in using the other two-thirds of the estate for the support of the family without obtaining legal authority. The change proposed is an important one, but I think it absolutely necessary. It is proposed that in connection with small estates the widow shall get the whole of the property and shall be allowed to use it to the best advantage. A similar alteration of the law has been made elsewhere, and I think we also may well adopt it.

HON. G. RANDELL: Is this provision intended to override a will?

HON. M. L. MOSS: No. The provision sets forth only what the distribution shall be in case of intestacy. When a man makes a will, it will still be open to him to cut off his wife with the proverbial shilling, if he feel so disposed. Where, however, a man dies without making a will the estate shall pass as here proposed. The only other provision to which I purpose specially directing the attention of the House is that providing for the administration of small estates under £300 in value. Clause 53 provides:—

In all cases where a person dies leaving property not exceeding three hundred pounds in value, application of probate or administration may be made direct to the Master; or if the aforesaid abode of the deceased at the time of his death has been more than thirty miles from Perth, then to the district agent for the Master nearest to such place of abode.

It is intended to appoint district agents—very probably the resident magistrates will be appointed—to receive the papers necessary for the purpose of granting probate or administration in connection with small estates. If hon. members will turn to the rules, they will see that these provide that the district agents are to render every possible assistance to the representatives of deceased persons in filing the necessary affidavits and documents. The result will be that the legal work in connection with small estates will be done quickly and at small expense. I strongly recommend the acceptance of the Bill to the House. I can hardly say that the measure will consolidate existing law, because the Bill is really designed

to provide us with a code in place of the unsatisfactory rules under which we have been working. The ordinary rules providing for the distribution of estates will apply, save in the particular instance dealt with by Clause 14, which gives the widow the whole estate up to £500. It is not intended to alter the disposition of property in other respects. If a person die intestate his estate will be distributed in accordance with the provisions laid down in the statutes, on which we should not make inroads, because they form the basis on which intestate estates are distributed throughout the British Empire. We should be indeed careful in interfering with those provisions, because they apply wherever British law is administered: we know exactly what takes place when a man dies without making a will. The small amendment proposed by Clause 14 of this measure I consider desirable. I trust hon. members will support the second reading.

At 6-30, the **PRESIDENT** left the Chair.
At 7-40, Chair resumed.

Question put and passed.
Bill read a second time.

IN COMMITTEE.

Clauses 1 to 3, inclusive—agreed to.

Clause 4—Jurisdiction of court as heretofore:

HON. G. RANDELL: One would like the Minister to point out as we went along anything eliminated from the Bill.

HON. M. L. MOSS: As far as one could make out, the amendment was precisely the same as that agreed to last session, with this exception, that the clause relating to the commission had been eliminated.

Clause passed.

Clauses 5 to 9, inclusive—agreed to.

Clause 13—No right of retainer:

HON. M. L. MOSS: In Sub-clause 2 there was a provision to alter the law. At present an executor or an administrator who might be a creditor of the deceased had a priority in regard to any claim due to him, notwithstanding that the estate might be in an insolvent condition. All over Australia that right had been taken away, and the executor and administrator put on the same footing as any other creditor.

Clause passed.

Clauses 11 to 13, inclusive—agreed to.

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

HON. W. MALEY: We wanted as far as possible to protect and encourage thrift and economy. One of the greatest incentives was that a person who made money during his life should by will at its close have the power to dispose of it to whom he liked.

HON. M. L. MOSS: The hon. member did not understand the clause.

HON. W. T. LOTON: This clause operated in the case of a man who died without a will.

HON. W. MALEY: Notwithstanding that, he still maintained that he was right. Even in the absence of a will, it was not fitting that the whole of an estate up to the value of £500 should go to the wife and nothing to the children. The children had a far stronger claim on the property than the wife, who might be competent to earn her own living, whilst the children frequently were not. The clause, as it stood, could not be regarded as satisfactory. These remarks were designed chiefly to promote discussion.

HON. M. L. MOSS: If Mr. Maley wished food for discussion, he might be furnished with abundance of it under the Statute of Distributions passed by the Imperial Parliament. That statute was the result of the deliberations of many great minds; but yet there was not one of its provisions which had not been characterised as inequitable. The provision that in the case of an intestate's estate one-third should go to the wife and two-thirds to the children was not altered except in the case of estates whose value did not exceed £500. The need for the alteration, as he had previously stated, arose from the fact that in many cases the wife used the corpus of the estate without authority, in order to maintain and educate her children. In other cases, needless expense was incurred by the wife's making application to the court, which application, it was to be noted, was never refused. Evidently, in the case of estates whose value did not exceed £500, the widow must use the corpus, as well as the income, for the maintenance and education of the children. We should certainly not be encouraging economy and thrift by

striking out this clause, but should rather be throwing a burden on poor people.

HON. J. D. CONNOLLY: This Bill had been read a second time only to-night, and therefore the Committee stage should not now be proceeded with.

THE MINISTER FOR LANDS: The Bill had gone through the House last session.

HON. J. D. CONNOLLY: Still, hon. members had not had much time to peruse the measure.

HON. M. L. MOSS: The Bill was circulated a fortnight ago.

HON. J. D. CONNOLLY: Nevertheless, the second reading had taken place only to-night, and he therefore moved that progress be reported.

Motion (progress) put, and a division taken with the following result:—

Ayes	...	...	3
Noes	...	...	14
Majority against			11

AYES.
Hon. J. D. Connolly
Hon. W. Maley
Hon. J. W. Wright
(Teller).

NOES.
Hon. T. F. O. Brimage
Hon. E. G. Burges
Hon. E. M. Clarke
Hon. C. E. Dempster
Hon. J. W. Hackett
Hon. S. J. Haynes
Hon. A. Jameson
Hon. R. Laurie
Hon. W. T. Loton
Hon. M. L. Moss
Hon. G. Randell
Hon. Sir George Shenton
Hon. Sir Edward Witte-
neom
Hon. J. A. Thomson
(Teller).

Motion thus negatived, and the clause passed.

Clauses 15 and 16—agreed to.

Clause 17—Conditions on which real estate may be leased or mortgaged:

HON. R. G. BURGESS: The three years' term proposed by this clause was too short. The obtaining of the consent of the court would frequently involve great difficulty. He had personal knowledge of an estate to which the heir had not yet been born, and might not be born for three years.

HON. M. L. MOSS: There was a distinction between an administration and a probate. Of course an executor under a will had power to lease for any number of years, and that power would continue to be exercised. An administrator who acted in connection with an intestate estate was not to be empowered to lease for a longer period than three years unless he did so with the consent of the parties

beneficially interested, or unless the Court otherwise ordered. If an administrator leased on his own account, he might fix upon a rent which was not fair, or he might be actuated by some indirect motive. The question was, whether Parliament was prepared to give an administrator power to lease these valuable properties for a longer period than three years without there being any safeguard. He did not suppose that the Government objected to any longer period of years, but speaking personally he thought the clause a very fair one.

Clause passed.

Clauses 18 to 62, inclusive—agreed to.

Clause 63—Fees of Curator:

HON. S. J. HAYNES: Without any explanation from the Minister in charge of the Bill, six per cent. seemed an extreme rate for a curator or anyone else to deduct from an estate. The amount should be reduced.

HON. G. RANDELL: Three per cent. would have to be paid into the Treasury.

HON. M. L. MOSS: Six per cent. had to be deducted in an estate where a curator acted. The curator generally only acted in very small estates, and he reckoned that the value of the bulk of the estates would not be more than £100. Three per cent. would be paid as commission to the curator's agents in respect of all moneys collected by them, and three per cent. would go to the Treasury.

HON. S. J. HAYNES moved that the word "five" be substituted for "six," in line 2.

HON. W. MALEY: Both sides of this question should be considered. On the one hand, we had the statement of the Minister that only small estates, as a rule, came under the care of the curator; but, on the other hand, we had the fact that the Tyson estate had been left intestate.

HON. M. L. MOSS: The case of the Tyson estate did not apply. This provision referred not to an administration, but only to estates in respect of which there were no heirs, no next of kin, and no will.

HON. G. RANDELL: While at first six per cent. had seemed to him too high a rate, yet Mr. Moss's statement that intestate estates which came into the hands of the curator averaged only about £100 in value, took away the force of the

objection. It was scarcely worth while to alter the Bill by substituting five per cent. for six. An estate of only £100 probably caused quite as much work as an estate worth several hundreds of pounds.

HON. M. L. MOSS: The Government were quite satisfied to leave the matter to the decision of the Committee.

HON. S. J. HAYNES: The rate proposed by the clause was too high, and although the alteration proposed would involve a certain amount of trouble both here and in the other House, yet it was desirable, if possible, to pass such legislation as could be allowed to remain on the statute book for years to come without necessity for tinkering. Perhaps the best course in the circumstances would be to provide a scale of commission sliding in accordance with the value of estates.

HON. R. G. BURGESS: The police did all the work in connection with many intestate estates. Did the six per cent. commission cover the police charges?

HON. M. L. MOSS: Yes; but the taking charge of an estate by the police did not cover the whole of the work. Something remained to be done by the curator and his staff, who cost the Government money. The rate of six per cent. would assist only in some small measure to cover the cost of the curator's office.

HON. J. D. CONNOLLY: Sub-clause 2 referred to a payment of three per cent. commission to the curator's agents. What became of that three per cent. if there were no agents?

HON. M. L. MOSS: In that case, the Treasury received the whole of the six per cent.; because if there were no agents there could be nothing to deduct on account of agents' services.

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

Ayes	...	...	...	8
Noes	...	...	...	9

Majority against ... 1

AYES.
Hon. R. G. Burgess
Hon. J. D. Connolly
Hon. C. E. Dempster
Hon. S. J. Haynes
Hon. A. G. Jenkins
Hon. W. T. Loton
Hon. W. Malet
Hon. J. W. Wright
(Teller).

NOES.
Hon. E. M. Clarke
Hon. A. Jameson
Hon. M. L. Moss
Hon. G. Bailell
Hon. Sir George Shenton
Hon. C. Sommers
Hon. J. A. Thomson
Hon. Sir E. Wittenoom
Hon. E. Laurie
(Teller).

Motion thus negatived, and the clause passed.

Clauses 64 to 89, inclusive—agreed to.

HON. C. SOMMERS stated his intention to move, later, a new clause relating to commission to private trustees.

Progress reported, and leave given to sit again.

PUBLIC NOTARIES BILL.

SECOND READING.

HON. M. L. MOSS (Minister), in moving the second reading, said: This small measure has been introduced for the purpose of making proper provision for the appointment of public notaries in this State. It appears that for a period of something like five years no public notaries have been appointed in Western Australia, and for this reason: I believe that the commission of His Excellency the Governor is worded in such a way that it authorises him to appoint all civil officers in the State. On that commission His Excellency from time to time has appointed public notaries in Western Australia, and when Mr. Sayer was appointed secretary to the Law Department he drew the attention of the Attorney General of the day to the fact that there was a doubt as to whether those appointments were legal, because in England the appointment of a public notary is not a civil appointment at all, but an appointment made by the Archbishop of Canterbury. In some of the Australian States—Victoria, for instance—they have never appointed notaries locally. The appointment can be made by the Archbishop of Canterbury. I believe that in New Zealand they have a special Act empowering them to make these appointments locally. A question has arisen whether it is a civil appointment or an ecclesiastical one, and the balance of authority seems to be of opinion that it is an ecclesiastical appointment. With a view of confirming all notaries who have been appointed in the State, this Bill has been brought in, and provision is made for the appointment of notaries in future. Any notary public who has already been appointed in the State will become a notary public under this Bill on taking the oath mentioned in the measure, and without paying any fee, so that all the vested interests of public

notaries are duly protected. Provision is, I say, made for the appointment of notaries in the future. Under Clause 5 one must be a practitioner of the Supreme Court of three years' standing, or he must be a practitioner of the court and have practised as a public notary in some part of His Majesty's dominions for seven years. As to new appointments, a public notary has to satisfy the Chief Justice that he is of good character and repute, has not been suspended from practice as a legal practitioner or struck off the rolls, that he is competent and qualified to act, and that there is need for the appointment of a public notary in the place where he is practising. Not every practitioner will be able to obtain appointment. He will have to show a qualification for the appointment, and that there is need for an appointment. I believe that in the See of London notaries are obliged to pass an examination, and to pass through a period of articles. In other parts of England and in any of the Australian States where appointment is made by the Archbishop of Canterbury, it is necessary to show there is need for the appointment. If there is a sufficient number of notaries in any particular locality to perform the work an appointment is not made. The Chief Justice has to be satisfied as to the competency of the person, and the application is to be made in very much the same way as in the case of the appointment of a legal practitioner. An advertisement appears in the local Press, and the appointment is made by the Full Court. There is a fee of £5 charged on that appointment.

HON. S. J. HAYNES: Not enough.

HON. M. L. MOSS: The Government will not object to an increase of the amount; at least, the money is given to the law library.

HON. R. G. BURGESS: Is the provision the same as in the Bill of last year?

HON. M. L. MOSS: With this exception, that instead of the term being three years it was seven years. I believe the House objected to seven years as being too long, and it was cut down. The Bill was among the innocents slaughtered at the end of the session. The remaining clauses of this Bill are to provide necessary machinery for making the rules and for striking off the rolls a person guilty of any unprofessional or dishonest con-

duct. As I have already pointed out, Clause 5 provides that if a man is a practitioner of the court and has practised for seven years as a public notary in any other part of His Majesty's dominions he is entitled to admission, although he may have come into the State only the day before application. The qualification as to three years' practice in Western Australia will not apply in such a case. I think that is fair. Any person in this State who has not become a properly qualified notary will not be admitted until he has been in practice three years. It has been pointed out by the Premier that a probationary period of three years is necessary, because notaries are intrusted with the performance of most important work. It is all-important that the men who fill the positions should be men of repute and standing, and well known in the community in which the appointment is made. I think the Bill perfectly unobjectionable. Some lawyers have said there is no reason why the appointments should not be continuously made. If there are doubts, there is no reason why Parliament should not put the thing on a proper footing. I assert that the Bill is absolutely unobjectionable, and I move the second reading.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—Confirmation of appointments and acts of established notaries:

HON. R. G. BURGESS: Under this clause practitioners became notaries without fees?

HON. M. L. MOSS: Yes.

Clause passed.

Clause 4—agreed to.

Clause 5—Qualification of notaries to be appointed under this Act in future:

HON. J. D. CONNOLLY: Sub-clause (c) provided that a practitioner of the court who had practised for seven years as a public notary in some part of His Majesty's dominions could be appointed. If a gentleman was qualified after having practised for three years in Western Australia, why should a period of seven years be exacted because a person had practised as a public notary in some other part of His Majesty's dominions? He

moved that the word "seven" be struck out and "three" substituted in lieu.

HON. M. L. MOSS: Sub-clause (c) was a very large concession. In six months a man could become a practitioner in this State, and if he had been a public notary for seven years he had not to wait three years before being appointed. Such practitioner had a very big concession over the man who started practising here and had to wait three years. He could not consent to the alteration.

Amendment put and negatived.

Clauses 5 to 14, inclusive—agreed to.

Schedules (2), preamble, and title—agreed to.

Bill reported without amendment, and the report adopted.

ADJOURNMENT.

The House adjourned at 8:48 o'clock, until the next Tuesday.

Legislative Assembly,

Tuesday, 2nd September, 1902.

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

PRAYERS.

PAPERS PRESENTED.

By the MINISTER FOR WORKS: 1, Return showing cost of rails, buildings,

etc., for Menzies-Leonora Railway, moved for by the member for Dundas. 2, Copy of alteration to Classification and Rate Book. 3, File of papers relating to Collie-Boulder Railway.

Ordered: To lie on the table.

QUESTION—COLLIE-BOULDER RAILWAY.

DR. O'CONNOR asked the Minister for Works: 1, Whether the construction of the Collie to Collie-Boulder railroad has already been commenced; and if so, how much is completed. 2, Whether the work is being carried out by day labour or by contract. 3, If by contract, whether it was open to public tender. 4, Who are the people performing the work. 5, At what price per mile the work is being done, and how the Government arranged the price.

THE MINISTER FOR WORKS replied: 1, Yes; and about one-fifth of the earthworks are finished, and the bridge work has just been commenced. 2, By contract, at schedule rates. 3, No. 4, The Collie-Boulder Coal Mining Company. 5, Approximately £2,000 per mile, by agreement with the company at schedule rates, but always subject to the sanction of Parliament being obtained to the extension of the line.

QUESTION—GOOMALLING RAILWAY, COMPENSATION.

MR. MONGER asked the Minister for Railways: 1, What amount of compensation has been claimed for lands resumed for the purposes of the Goomalling Railway. 2, What amount has been paid or agreed to be paid.

THE MINISTER FOR RAILWAYS replied as follows:—1, £1,795 8s. 2, £218 14s.

QUESTION—JANDAKOT AND WANNEROO RAILWAYS.

MR. JACOBY asked the Premier: If he accepts the loan offered by the hon. member for Dundas, whether he will have any objection to its reappropriation for the building of the Jandakot and Wanneroo lines.

THE PREMIER replied: When the member for Dundas gives the House a chance to reappropriate, the matter can then be considered.