THE COMMISSIONER OF CROWN LANDS said that, as a great deal of criticism had been levelled against the Bill, and the legal member of the Commission (Mr. James) was not then in his place in the House, he would move that progress be reported.

Put and passed.

Progress reported, and leave given to sit again on the next Wednesday.

ADJOURNMENT.

The House adjourned at 8·37 o'clock p.m., until the next Tuesday.

Legislative Council,

Tuesday, 22nd September, 1896.

Want of Quorum—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the chair at 4·30 o'clock, p.m.

WANT OF QUORUM—ADJOURNMENT.

Ten minutes from the time of meeting having elapsed, and a quorum of members not being present, the President (Hon. Sir G. Shenton), in accordance with the provisions of Standing Order No. 9, declared the Council adjourned until the next sitting day, viz., Wednesday, 23rd September, at half-past four o'clock, p.m.

Legislative Assembly,

Tuesday, 22nd September, 1896.

Question: Purchase of Great Southern Railway—Loan Bill and Message, £3,500,000—Customs Duties Repeal Bill: third reading—Tobacco (Unmanufactured) Duty Bill: third reading—Public Works Bill: in committee—Bills of Sale Bill: second reading—Bankruptcy Act Amendment Bill: in committee—Waterworks Bill: second reading moved—Adjournment.

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

PRAYERS.

QUESTION—PURCHASE OF GREAT SOUTHERN RAILWAY.

MR. HARPER, by leave and without notice, asked the Premier: Is it true that the Government have purchased the Great Southern Railway?

THE PREMIER (Hon. Sir J. Forrest) replied: I have pleasure in replying to the hon. member, and in informing the House, that the Great Southern Railway Company have for some time past been in negotiation with the Government with regard to the purchase of the whole of their interests in this colony; and yesterday I cabled to the Agent-General in London to inform the Company that the offer made by them, which offer is subject to the approval of the shareholders of the Company, has been accepted by the Government, subject to the approval of Parliament.

LOAN BILL, £3,500,000.

THE PREMIER (Hon. Sir J. Forrest) moved for leave to introduce a Loan Bill to authorise the raising of a sum of £3,500,000 by loan, for the construction of certain public works and for other purposes.

A Message from the Governor, recommending the appropriation, was read.

Leave given; Bill introduced, and read a first time.

CUSTOMS DUTIES REPEAL BILL.

THIRD READING.

Bill read a third time, and transmitted to the Legislative Council.

TOBACCO (UNMANUFACTURED) DUTY BILL.

THIRD READING.

Bill read a third time, and transmitted to the Legislative Council.

PUBLIC WORKS BILL.

On the motion of the ATTORNEY GENERAL, the House went into committee to consider the Bill.

IN COMMITTEE.

Clauses 1 to 3, inclusive—agreed to.

Clause 4—Interpretation:

MR. RANDELL, referring to the definition of notice required, suggested that it would be well to provide that notice should be sent by letter, as in some cases the parties interested might not see the *Government Gazette*, or the particular advertisement in a newspaper, and a notice sent by post would give information in a direct manner.

THE ATTORNEY GENERAL (Hon. S. Burt) said the difficulty as to carrying out the suggestion was that in many cases the address of the party in question was not known to the department, and the only means of conveying information in such case would be by notice given in a public manner.

MR. MOSS pointed out that, in the definition of the word "survey," the Licensed Surveyors Act, 1886, should mean 1895.

THE ATTORNEY GENERAL said that was so, and the wrong figures could be amended by treating them as a clerical error.

Error corrected accordingly, and the clause passed.

Clauses 5 to 8, inclusive—agreed to.

Clause 9—Annual Estimates; when moneys voted for railways, Appropriation Act to contain schedule of same:

THE PREMIER (Hon. Sir J. Forrest) said this clause, and also Clause 10, which provided that the annual accounts and expenditure should be certified to by the Auditor General, seemed to be provisions that were not necessary in this Bill, because the Audit Act governed the expenditure of public moneys, and it was not desirable to have two Acts directing the Minister to do things which were already provided for in the Audit Act. It might, in fact, be very inconvenient to carry out the provisions of these two clauses, because what was provided for here would be set forth in the Financial Statement, and in the explanation of the Loan Estimates when laid before Parliament; therefore, to carry out the provisions in these clauses would be inconvenient. Clauses 9 and 10 seemed to him to have nothing to do with the Public Works Bill, and related more directly to the financial arrangements of the Government.

MR. LOTON said that if the principles of these two clauses were embodied in the Audit Act, he did not see any objection to the clauses remaining in the Bill as printed.

THE PREMIER said they could not be carried out.

MR. LOTON said that even Western Australia was not likely to be called upon continuously, in the future, to rush along with public works as it was doing at the present time; and it was desirable that Parliament, as representing the people of the country, should have before it all the information which these clauses proposed should be laid before Parliament, and which information should be before members prior to their being called on to vote sums for public works. As to the same information being set forth in the Financial Statement, he pointed out that the Minister in charge of the Works Department was a member of the Executive, and why should he not be prepared to lay this information before the Assembly, as belonging properly to the Works Department, instead of the Treasurer dealing with it in his annual Financial Statement. He (Mr. Loton) could not see that it would involve any difficulty in carrying out the provisions of these two clauses, unless the object of the Government was to rush works through the House.

MR. RANDELL asked whether these provisions were already in the public works enactments.

THE ATTORNEY GENERAL said they were not.

THE PREMIER said this Bill provided, in Clause 9, that "The Minister "shall, as soon as conveniently may be "after the opening of each session, lay "before Parliament full and detailed "estimates of the expenditure proposed "to be made upon all Government works

"during the financial year; and no such "works shall be undertaken unless Par- "ment appropriates money for the execu- "tion thereof." Of course, the Government could not carry out works unless money for them was voted: the Audit Act was pretty clear on that point. If any hon. member thought the Audit Act would not prevent the Government from expending money on works without a prior vote by this House, then the insertion of Clause 9 in this Bill would not prevent them. The procedure set forth in these two clauses was different from that practised in this colony; and although the proposed procedure might be suitable to the circumstances of New Zealand, it did not seem in accord with the procedure which had been established here. The procedure as to the authorisation of public works by Parliament in this colony was simple and clear; for the Estimates of proposed expenditure out of Consolidated Revenue, and the Loan Estimates of proposed expenditure out of borrowed moneys were laid before Parliament; and, by the procedure established last year, both these sets of Estimates were afterwards to be placed in the Appropriation Act. The Minister in charge of the Works Department brought down his statement of works undertaken during the past year out of Consolidated Revenue and out of loan funds, and the Minister also explained what works were proposed to be undertaken in the ensuing year from current revenue and from loan funds. In regard to the Consolidated Revenue Estimates, the expenditure was therein printed in detail. It seemed to him that if these two clauses were adopted, the House would be getting into a different procedure altogether; a procedure which appeared to him not so good as the one now followed.

MR. VENN said the procedure in these two clauses would be a departure from the existing procedure, but a departure in the right direction. The head of the department of public works should be more immediately responsible to this House than he would be if the Treasurer followed the present practice of setting forth the Loan Estimates of expenditure. This provision had been found to work well in New Zealand, and there could be no harm in having it here. This Bill, in fact, was making a new departure, for the colony had not worked under a special Act before for regulating the public works, and as it was now proposed that the Minister of this department should work under a special Act, it would be well that these clauses should be in it.

MR. LOTON said the clauses provided that the Minister in charge of the Works Department should have estimates prepared showing the cost of the works to be carried out during the year, and these estimates would be placed before Parliament. Members of the House, therefore, would have some definite information before them as to the cost of the works proposed by the Government; whereas hitherto the Government had proposed a number of works, and had put down a lump sum for them on the estimates. It was very desirable this new procedure should be adopted, so that hon. members should know the estimated cost of any particular work proposed on the Estimates. At the present time it occasionally happened that sums were voted for works which were not more than half the amount that was needed to carry them out, and it was difficult for the House to refuse a vote for a second amount to complete the work after having passed the first amount.

THE PREMIER said he did not know that members would get any more information under Clauses 9 and 10 of the Bill than they got under the present system.

MR. LOTON said the House got no information at all, at the present time, as to the cost of proposed works; therefore the change proposed in these clauses would be in the interest of the country.

MR. ILLINGWORTH said the object aimed at in Clauses 9 and 10 was to fully apprise members of the cost of each work, comprised in a lump sum on the Estimates. This information would be given not unofficially by the Colonial Treasurer, but officially by the Director of Public Works. It would be an advantage to the House and to the country if proposals for public works were not rushed through the House as they had been of late; also that public works should not be undertaken without members knowing what the real cost would be. Hon. members would recollect cases where they had been asked to vote £2,000 or £5,000 for works, and where they had at

a later period been asked to vote another £2,000 or £5,000 for the same works. The clauses under discussion would prevent that kind of thing from happening; for when a work was placed before the House, the Director of Public Works would be required to state the estimated cost. If the Bill had to pass, he thought these were two of the most practical clauses it contained, and he hoped the Premier would not press his objection.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) said that, in the cases where additional votes had been asked for, it usually happened that it had been found necessary to enlarge the accommodation in the building proposed to be erected.

THE PREMIER said he would let the clause go, as proposed, because it seemed to do nothing more than legalise the procedure followed at the present time. He would, however, object to the schedule which followed, as it was not a good thing to fix the form to be used.

MR. VENN said the House could alter the schedule when they reached it, but to him it seemed to provide a very convenient form.

MR. SOLOMON supported the two clauses, because they provided for the House getting more information about proposed works.

Clause put and passed.

Clauses 10 to 14, inclusive—agreed to.

Clause 15—Power to Minister to take water or acquire land for purpose of supplying water for railway purposes:

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, in line 2, that the words "the said" be struck out, and the word "this" be inserted in lieu thereof.

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

Clauses 16 to 19, inclusive—agreed to.

Clause 20—Upon memorial, lands to be taken by proclamation; declaration by local authority to be accepted as sufficient that public work is authorised:

THE ATTORNEY GENERAL moved, as an amendment in Sub-clause 4, that the following words be added: "and that proclamation shall declare in whom the land so taken shall vest."

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

Clause 21—agreed to.

Clause 22—Setting apart Crown lands for public works:

MR. RANDELL asked for explanation of this clause.

THE ATTORNEY GENERAL said the clause referred to unalienated Crown lands taken for railway purposes.

Put and passed.

Clauses 23 and 24—agreed to.

Clause 25—Map and proclamation to be registered:

THE ATTORNEY GENERAL moved, as an amendment, to strike out Sub-clause 1, and paragraphs (*a*) and (*b*) of Sub-clause 2, and to insert the following in lieu thereof:—"(1.) Where the "land taken is not under the operation "of 'The Transfer of Land Act, 1893,' "the Minister shall deliver a memorial "of every proclamation into the office of "the Registrar of Deeds in conformity "with the provisions of 19 Victoria, 14, "and shall deliver a copy of such procla- "mation, and of the map referred to "therein, to the Registrar of Titles, who "shall thereupon bring the land so taken "under the operation of 'The Transfer "of Land Act, 1893,' by registering the "same in the name of Her Majesty, her "heirs and successors, the local authority, "or the corporate body in whom the land "is by such proclamation vested."

"(2.) Where the land is under the "operation of the Transfer of Land Act, "the Minister shall deliver a copy of the "proclamation and of the map referred "to therein, to the Registrar of Titles, "who shall thereupon register the same "in the name of Her Majesty, the local "authority, or the corporate body in "whom the land is declared by such "proclamation to be vested, by memo- "randum upon the folium of the register "book containing the land out of which "the taking has been made. And any "person in possession of the Crown "grant, certificate of title, or other "instrument evidencing the title to such "land shall, upon receiving notice from "the Registrar of Titles in that behalf, "deliver up to him such grant, certificate "of title, or other instrument, to be "wholly or partially cancelled, as the "case may require; and any person re- "fusing or neglecting so to deliver up "any such instrument shall be liable to "a penalty not exceeding Fifty pounds."

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

Clause 26—Certain lands taken by a proclamation to be shown on the maps and records in the Surveyor General's office:

THE ATTORNEY GENERAL moved, as an amendment, in the first line, that the words "or taking" be struck out.

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

Clauses 27, 28, and 29—agreed to.

Clause 30—Land may be taken for any public work, after such public work has been completed:

MR. RANDELL said Sub-section 4 contained a reference to sub-clause (*e*) of Section 93, and to the words "after the deposit of such maps and plans" as appearing in that sub-clause. But on looking at sub-clause (*e*) of Section 93, he failed to find the words quoted.

THE ATTORNEY GENERAL said he would take a note of the point, and see where the error had occurred.

MR. RANDELL drew attention to the next portion of Sub-clause 4 of this clause, and would like an explanation of its meaning. It seemed to him that it prevented a person injuriously affected by the operations of the Act from claiming compensation.

THE ATTORNEY GENERAL said the clause meant that, where a person had received compensation, he could not claim again.

MR. VENN said the wording of the clause was not very clear, and it might be read in the way Mr. Randell had read it. The Engineer-in-Chief had called the attention of the Select Committee on Bridges over Railways to that very clause, and pointed out that, while under it a person could claim compensation for disturbance, he could not also claim compensation for the closing of a street across a railway.

THE ATTORNEY GENERAL said the clause was quite clear. It simply meant that a person who had once settled with the Government in respect of lands taken for railways could not claim again.

MR. ILLINGWORTH said it might happen that a man had part of his backyard taken for railway purposes, and then the rest of his property might subside owing to the Government making a railway cutting there. The man would then have received payment for the property taken by the Government, but the clause under consideration would prevent him from claiming compensation in respect of the subsidence.

THE ATTORNEY GENERAL said that in the case described by Mr. Illingworth there could be little doubt that if the making of a railway cutting caused a man's house to tumble down, he would very quickly make a claim for it, and the claim could not be resisted. The clause simply meant that when compensation had been paid, the particular matter was concluded.

MR. JAMES said the principle of compensation was dealt with by Section 36, but he had intended himself to call attention to the point suggested by Mr. Illingworth. If he had a block of land or a house, and got full compensation so far as severance was concerned, still if, for instance, the house was afterwards injured by vibration caused by the running of trains, he could not recover for the damage caused by the running of trains. Any compensation granted was in connection with the making of the works, or for injury due to severance. It would save trouble if the Attorney General would tell them what the proviso was put in for.

MR. LOTON said if land were taken, and a claim made for compensation, no claim was made then for injurious effects which might not be apparent when the land was taken. If, after the compensation had been paid, it was found that some injury was caused to the property of the person who had received the prior compensation, would not that person have a cause of claim for injurious effect, under this clause?

THE ATTORNEY GENERAL said that, in the case stated, there would not be a cause of action, for the reason that the claimant would be a person who had already received payment for having been injuriously affected.

MR. JAMES questioned that statement, because the law was perfectly clear on the point, as the only compensation given by the Act was to the person who was injuriously affected by severance. If, by reason of increased traffic, a house became untenantable, then compensation could not be obtained, according to the Attorney General, although there would be the proved injurious effect of the

running of the trains. If an amendment were made in Clause 36, as he had suggested, the land would not be injuriously affected by the public works mentioned in the Act. The clause, as it stood, took the law no further than at present.

THE ATTORNEY GENERAL said the grounds upon which a person might claim were infinite, as a man might claim for severance and for pretty well everything he could put his mind to; but it was unjust to the public purse to allow a man to come back, after once receiving compensation, with another cause of injury, because such a provision would lead to roguery, and the Government would not know where they might be landed if people were allowed to resuscitate claims whenever they thought fit. By far the better way was to adopt a hard and fast rule in the first instance.

MR. ILLINGWORTH said the Government might use land they had taken in such a way as to cause injurious results, for which no compensation was given.

MR. RANDELL moved, as an amendment, that the proviso to Sub-section 4, also Sub-section 5, be struck out, as he considered them unnecessary.

THE ATTORNEY GENERAL said if hon. members would consider the clause, they would not agree to the amendment. Outside of the compensation which might be awarded for taking land, and the injury which might accrue thereby, the case had been put forward that a man might be injured by the working of a railway, for which injury compensation should be granted. The clause was designed to prevent a man, who had once claimed compensation for an injurious effect caused by the execution of public works, from coming a second time and claiming that which he had claimed already by reason of his being injuriously affected by the execution of the particular work. The Government would have to fight against any such principle as proposed being admitted, as it would be a most dangerous one.

MR. RANDELL said the language of the sub-section was very involved, and he could not fathom its meaning. Sub-section 5 gave a large power, as it placed a man at the mercy of the Government, while the proviso was totally unnecessary.

THE ATTORNEY GENERAL said Sub-section 5 provided that the provisions of the section should be deemed to apply, *mutatis mutandis*, to the closing of any road or street; but all that the section said was that a man should be precluded, after once having put in a claim, from coming again and making a fresh claim on account of his being injuriously affected. This was also a provision in the New Zealand Act, and no doubt it had served a good purpose there, and was worthy of adoption here.

MR. GEORGE said he did not see why people who had been compensated for their land should also be compensated for the closing of roads which the land adjoined. Was that the meaning of Sub-section 5 of this clause?

THE ATTORNEY GENERAL said the sub-section applied both to the closing of roads and to the taking of lands.

MR. ILLINGWORTH urged that Sub-section 4 might be used to thwart just claims, and he was sure that was not the wish of the Government or of the people of the colony. When damage was done, no one would object to compensate the injured person. It was no answer to a claim for fair compensation to say that people usually, in such cases, asked more than they were entitled to. The Government encouraged this practice on the part of property owners, by offering half of the amount claimed; consequently, this fact having become known, twice as much was asked as an owner expected to get.

THE PREMIER said the committee should be careful not to open the door too widely, for his experience was that persons whose property was resumed by the Crown knew how to look after themselves, and valued their land at a great deal more than they hoped to obtain. The Government selected the best valuers available to appraise the property, and in nine cases out of ten the Government acted on the advice of those assessors. When claims went to arbitration, the arbitrators usually dealt liberally with them, remembering that the property was being taken forcibly. That being so, he did not think that persons who had received compensation should be allowed to come again against the State funds to be compensated for imaginary grievances. There ought to be some finality in these matters, and he believed the law would

support any legitimate claim for unforeseen injury. It might be taken for granted that persons whose land was resumed, were justly dealt with, seeing that the Government had had to pay £130,000 for a narrow strip of land in Perth taken recently for the railway. The sub-section to which exception had been taken appeared in the New Zealand Act, and it would be as well to let it stand in this Bill, as there was a tendency on the part of everyone to deal liberally with claimants when land was taken for public purposes.

THE ATTORNEY GENERAL explained that the proviso would prevent people from making claims on account of trifling informalities in the procedure of taking their land, after they had received compensation for the property. A similar case had been taken into the Supreme Court in connection with the Great Southern Railway, which had informally dealt with a road.

MR. RANDELL said that, after hearing the explanation of the Attorney General and his promise to insert some words in the Bill to make the recognition of all legitimate claims more clear, he would withdraw the amendment.

Amendment, by leave, withdrawn, and the clause passed.

Clauses 31 and 32—agreed to.

Clause 33—Order in Council to constitute transfer of title:

THE ATTORNEY GENERAL moved, as an amendment, that Sub-clause 1 be struck out, and the following be inserted in lieu thereof:—"Upon the payment of "the purchase money, if Her Majesty, "her heirs and successors, are registered "as proprietors of the land, the Com- "missioner of Crown Lands shall execute "a transfer to the purchaser in accordance "with Section 145 of 'The Transfer of "Land Act, 1893;' and if a local "authority, or some person on its behalf, "is the registered proprietor of the land, "such local authority or person shall "serve on the Registrar of Titles a copy "of the Order in Council for the sale of "the land, together with a copy of the "certified map thereof, and a certificate "of the payment of the purchase money, "with the name and address of the "purchaser."

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

Clauses 34 and 35—agreed to.

Clause 36—All persons suffering damage entitled to compensation:

MR. MOSS (for Mr. JAMES) moved, as an amendment, in the fourth line, that afters the words "exercise of the powers hereby given," there be inserted the words "or by the carrying on of any public work on such land."

THE ATTORNEY GENERAL said the amendment was a serious one. It would revolutionise the whole system of public works, by proposing to give compensation for every hardship that might be occasioned in the carrying on of any public work, ranging from the inundation of a town through the bursting of a water reservoir to the spoiling of a suit of clothes. The principle had never been admitted before, that when Parliament had authorised the carrying out of certain works for the public benefit, and when every skill and precaution had been employed to guard against injury being done, the Crown should be liable for damage arising out of the operation of those works.

MR. MOSS said a private individual was liable for any injury which he caused, and why should the Crown be placed in a different position?

MR. GEORGE said it would make the Government officers careful in the construction of works if the Crown was made liable for damage arising out of them.

THE PREMIER said that would not hurt the Government officers. It would only hurt the country.

MR. GEORGE said drainage might be blocked and property injured, by the faulty construction of railway works, and the injured owner ought to be compensated.

THE ATTORNEY GENERAL said that was all settled. It was provided for in the Bill.

MR. JAMES said he would cite a case that was not provided for in the Bill, namely, the case of injury done to a building by vibration in the working of a railway, which an English judgment had decided could be caused with impunity. The defence in that action, and which the judges upheld, was that as the construction of the railway had been authorised by Parliament, no compensation was payable for damage

accruing from the carrying on of that work. He (Mr. James) contended that this House should provide for cases of the kind; for although it was said the Government in this colony dealt liberally with claimants when property was resumed, yet it was known that the umpire who was chosen by all the parties to a claim, often awarded a larger sum than the Government had been willing to give.

At 6·30 p.m. the CHAIRMAN left the chair.

At 7·30 p.m. The CHAIRMAN resumed the chair.

MR. JAMES, continuing his remarks on Clause 36, said the wording of this clause was very similar to a corresponding section in the Lands Clauses Act in England. In the English case of the Hammersmith Railway and Brand, the decision of the judges was perfectly clear, to the effect that the complaint as to vibration of building, caused by the working of the defendant company's railway, did not entitle the plaintiff to compensation under the Act, Parliament having inferentially excluded compensation in such cases. The judges, however, pointed out that, quite apart from the Act itself, if a private individual were doing that which the defendant company were doing in this instance, the private individual would be responsible for the damage done, and the plaintiff would be entitled to compensation. It was clearly laid down in the judgment that, apart from the fact that the defendant company had a right to run a railway, if it had not been for the fact that an Act of Parliament barred a claim for damage in such case, the company would have been liable to pay compensation. The judges said it was clear that Parliament had not adopted the principle of compensation as applying to that class of claims for damage, although there was clearly the injury of a private right. It appeared to him (Mr. James) to be a most unjust thing that such a claim should be barred by statute, where the injury was unquestionably a real one; and if, by virtue of this Bill, the House would be taking away the right of an individual by preventing him from obtaining compensation for damage done through the carrying on of a Government work, he believed it was possible to frame legislation that would meet the justice of the case. This ought certainly to be done, for surely they should make some provision for compensation where, in ordinary course, it would be granted if this Bill were not to come into operation as barring compensation, according to the English judgment he had cited. He recognised that claims might be made which were not just, but the justice of claims should be left to be determined by the proper tribunal.

THE ATTORNEY GENERAL said he had no objection to what the hon. member had put before the House, and he quite agreed with the reasoning. The hon. member had, in fact, repeated a good deal which he (the Attorney General) had already put before the House. The case pointed out by the hon. member was one which the House should endeavour to meet; but the House should observe that this would be providing compensation in cases that had not been provided for before; and, having no precedents to guide them, there was danger in adopting words that might have too wide a significance in an amendment, as they might be opening a door wider than the hon. member himself intended. He (the Attorney General) was not against providing for a case of injustice, if they could meet that case and similar cases only; but if they opened the door too widely, persons might become entitled to compensation for any kind of claim they chose to bring forward under the clause. By inserting words providing that damages should be payable in cases of all injuries caused through the operation of a Government work, too large a range of claims might be brought in. The English statute did not provide for the case mentioned by the hon. member, nor did those statutes in the colonies which he had consulted; therefore, while not himself averse to making provision for compensation, the committee should be careful to restrict the compensation to those cases only in which they would like to see it applied. Not being himself prepared, at the moment, to suggest any words for giving effect to that intention, and not having a clause prepared for the purpose, they might report progress, and let the matter stand over for consideration. He

might add that, with regard to the Bill generally, although there was very little in it that was new, there was a question with regard to the Arbitration Court, there being a new provision for calling in the assistance of a judge. One or two matters of that sort were new, and the Government desired that hon. members should have an opportunity of thoroughly considering them. This was a better Bill than the existing law on the subject; for the statutory provisions now applying to public works were not contained in any one Act, but were scattered through various Railway Acts which had been passed, and reference to these Acts was most inconvenient. Before bringing in this Consolidation Bill, the Government had consolidated nearly all the laws in the statute book, those relating to public works being about the last to be dealt with. He did not wish to press this Bill, which might stand over a little longer, or might be deferred to another session.

On the motion of the ATTORNEY GENERAL, progress was reported and leave given to sit again.

BILLS OF SALE BILL.

SECOND READING.

MR. JAMES, in moving the second reading, said: This Bill is practically a consolidation of the existing Acts in relation to bills of sale, liens, and bailments. The first Bills of Sale Act in this colony was passed in 1878, and there have been various amending Acts since then, some of the earlier amending Acts having been since repealed by subsequent enactments. In dealing with this Bill, I think I have incorporated all the provisions of the old Act and the existing amendments as closely as possible, except as to the wording. There are one or two new matters to which I desire to draw the attention of hon. members. One of the great objects, in introducing the first Bills of Sale Act, was to make some provisions for protecting the creditors of persons who were *primâ facie* in possession of certain property of which they were not the real owners; the provisions being intended to prevent what the old preamble described as any secret understanding by which persons who were *primâ facie* in possession of property of which they were not really the owners, and who, being in possession, obtained credit by virtue of it, might make away with the property; so that when creditors attempted to collect their debts, they often found that certain property, of which the possessor had appeared to be the owner, was really the property of someone else. The first Bills of Sale Act was passed to avoid that, as far as possible; but in it no provision was made for cases in which property was let on lease to an individual. All the evils which the framers of the old Act sought to avoid exist also in those instances wherein property is leased to a person who, while in possession of it, appears, *primâ facie*, to be the owner. Under the law at present a property may have been leased to an individual, without there being any registered document in connection with the transaction; and while, on the one hand, there may be nothing to prevent a person from obtaining credit as being the reputed owner of leased property, there is, on the other hand, no provision enabling creditors to acquire information as to the real ownership of leased property. The only risk a person runs who leases property to another, in case that other person obtains credit upon it as the *primâ facie* owner by virtue of possession, is that in the event of the person holding it becoming bankrupt, the creditors of that person or the trustee in bankruptcy can take possession under the reputed ownership clause of the Bankruptcy Act. These are exceptional cases. One of the new provisions in this Bill is that a bill of sale shall include any lease or agreement dealing with personal chattels; that is to say, if you have a lease of personal chattels, that lease must be registered. This registration will be by no means a disadvantage to the person who leases chattels to another person, but on the contrary will be somewhat of an advantage to him, for at present if you lease, say, a number of sheep to an individual, you have to be watchful as to what may happen to that property, because if the individual to whom you have leased the sheep becomes bankrupt, the sheep of which he is in possession will legally come under the reputed ownership clause of the Bankruptcy Act, and may be seized accordingly by the trustee in bankruptcy;

whereas, if you put the lease on the same basis as a registered bill of sale, a seizure in bankruptcy will be avoided. Then, in the case of leasing machinery, the public may be inclined to give credit to a person holding certain machinery on lease belonging to someone else, so that, by the registration provided in this Bill, the real owners of such machinery may be protected in the event of seizure by the creditors of the person in possession. In the case of an unregistered lease of personal chattels, the same penalty will follow that follows now, and nothing beyond that. To a large extent, this new provision will be an inducement to those owning personal property, and giving a lease of it, to register the lease; and this registration may be availed of by the real owners perhaps more than by the alleged owners. It has been pointed out that a great deal of injustice arises in connection with the transfer or assignment of a bill of sale. If, for example, I give a bill of sale over certain property to a third person, any one who wishes to know my standing can go to the register and see that there is that bill of sale in my name. So far, that is clear; but if I transfer that property to one John Jones, who may be, we will suppose, in possession of a hotel, and may seem to be going on satisfactorily, and if a person inquires into Jones's standing with a view to giving him credit, that person may consult the register, but find no bill of sale registered in John Jones's name, though he may find a bill of sale registered in my name. Instances have arisen in which great injustice has been done, and, as a remedy, it is suggested that where a bill of sale is transferred, or where property is sold subject to a bill of sale, such transfer or such conditional sale should be registered. Section 6 of the Bill provides that every bill of sale shall contain all the particulars that are required under the law as at present in operation; and I may say the details of this provision are copied from the South Australian Act. The next alteration provided in the Bill is in Clause 16, which voids a registration if not renewed every three years; the period of renewal provided in the existing Act being five years. The suggestion for shortening the period of re-registration was made by the acting secretary of the Perth Chamber of Commerce, his opinion being that re-registration should be required every twelve months. In three-fourths of the cases in which a bill of sale is discharged, no record of discharge is made on the register; the consequence being that a bill of sale may have been discharged three or four years ago, and a person consulting the register may not know that it has been discharged. Thus, a person referring to the register, and relying on it as sufficient, may find that a certain bill of sale appears to be still in existence, while as a matter of fact it may have been discharged years ago. In this Bill I reduce the time to three years, and by making this reduction I think no injustice will be done to anyone. In Section 30 we have a new provision, and I may say that none of these provisions have originated with me. This section provides that no levy of distress for rent shall be available for more than four weeks' rent, where the premises are let by the week; nor for more than two terms of payment, and not exceeding three months, where the premises or tenement is let for any term less than six months; or for twelve months' rent, where the premises are let for a longer term, unless the landlord shall pay or discharge the liability on the bill of sale. The object of this clause is to prevent the collection of accumulated rents in order to avoid the enforcement of the bill of sale. There might be collusion between the landlord and the tenant against the holder of the bill of sale, and this clause simply limits the extent to which distraint can be made for rent. No injustice is done in this matter, because the rent referred to in the clause is only that which has accrued after the execution of the bill of sale. Section 32 embodies a provision to be found in the Deeds of Arrangement Act, and simply provides that bills of sale shall be void, except where given in respect of advances made at the present time. If the person who gives the bill of sale becomes bankrupt within six months after the date of the execution of the bill of sale, then such bill of sale shall become void as against the trustee in bankruptcy. Under Clause 33, if judgment be obtained against a man within six months of the execution of a bill of sale, such bill of sale will not be good, except so far as it relates to goods received up to the time

of registration. Clause 34 provides simply that unpaid purchase money shall be treated as a present advance. Clause 36 is new to this colony, but has been adopted in various other colonies with satisfactory results. It provides that no bill of sale shall be given in consideration of any sum not exceeding £30. The object of this provision is to prevent the giving of bills of sale to cover advances for small amounts. It usually happens that when a man gets an advance for a small amount, he has very little to receive after the various charges have been deducted. In the other colonies, this has been found a useful provision. For myself, I shall, in committee, move the insertion of a section providing that no man shall be allowed to give a bill of sale over his furniture, wearing apparel, or cooking utensils. These articles, morally speaking, belong as much to the whole family as to the head of the family—at any rate, the wife has as much to do with them as her husband; and it seems to me a hardship that a man should be allowed to risk the home of his family on a bill of sale. This provision may be new in one aspect, and not in another; but at any rate it makes the law clear on the point. My desire, in bringing forward this measure, is not to introduce any startling innovations, but to keep to the old laws as far as possible, and avoid anything likely to increase litigation. As to the new clauses, they can be considered in committee; and if then thought undesirable they can be struck out. I do not think they will be considered undesirable, for they will tend to increase the practice of honesty in dealings between members of the community.

THE ATTORNEY GENERAL (Hon. S. Burt): I do not propose to make a lengthy speech on this Bill. If we have any amendments to make in it, we can discuss them in committee. As far as I can see, a good many of the new clauses of the Bill have been alluded to and carefully explained by the member for East Perth, and I do not desire to offer any more observations on the second reading.

MR. A. FORREST: I would suggest to the member for East Perth that he should put a clause in the Bill giving better protection to persons who advance money on bills of sale over manufactories, timber mills, and other concerns. We generally find that, when the owner of such a concern goes into liquidation, the person who has supplied him with money on a bill of sale is unable to protect his own interest. You may lend thousands of pounds on bills of sale, and yet if the person who receives your money becomes bankrupt, you are unable to take one step for your own protection. Some years ago, a foundry company in Perth became bankrupt, and persons who had lent money to a considerable amount to the company were unable to bid at auction for the concern, and so the place remained idle for years because it could not be worked except at the risk of the Court. The holder of the bill of sale in that case should have been in a position, if he thought fit, to bid for the concern and endeavour to recover his money by his own exertions. I hope the hon. member will do something in this direction, because at the present time it is almost impossible to get anyone to lend money on bills of sale, for that very reason.

Question put and passed.

Bill read a second time.

BANKRUPTCY ACT AMENDMENT BILL.

The House went into committee to consider the Bill.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—application of Act:

MR. MOSS said hon. members would notice that a number of clauses had been added to the Bill, with the object of making assignments compulsory as against a dissenting minority. It had been thought, by a large section of the public, backed up by the Chambers of Commerce of Perth and Fremantle, that when a private assignment was agreed to by the majority of the creditors, it should not be open to dissenting minorities to force the estate into the Bankruptcy Court. In many instances, a private assignment was better both for the debtor and the creditor; but minorities of creditors often abused the power they had by refusing to consent to an assignment, in the hope that by doing so they might secure preference over other creditors. The Bill also provided that deeds of arrangement should be registered, and that the Official Receiver

should then convene a meeting of the creditors, and should have the same control over the debtor and over the obtaining of proxies that he had when an estate was in bankruptcy. It had been mentioned by the Attorney General that these provisions might result in the revival of the old abuse with regard to the use of proxies. Clause 9 provided that the Official Receiver should be chairman of the meeting, in the same way as if the meeting were convened in bankruptcy; also that if a resolution were passed in favour of assignment by the creditors to the extent of three-fourths in number and five-sixths in value, a certificate to that effect could be signed by the chairman and be sent afterwards to the Court. The Court had power to have the deed of arrangement executed and made binding on all creditors. In addition, the Court would have a certain amount of control over the debtor, and the custody of the debtor's property. There were other necessary safeguards in the measure. The Court, if it thought fit, could set aside the deed of arrangement and place the debtor in bankruptcy, notwithstanding the efforts of a philanthropic majority. If the Government would assist those members of the House who were in favour of these provisions being passed into law, it would be in the interests of the country generally, and also in the interests of the general body of creditors. The mercantile community were the best judges of what was required, and the members of that community were anxious that the provisions he had explained should become law. The system comprised in the Bill worked well in other parts of Australia; and it seemed to him it would be a very easy means of realising and distributing property, where the creditors were satisfied there was no fraud or dishonesty. Under the Act as it at present stood, schemes of arrangement might be suggested by a debtor, and the majority might agree; but there was nothing to force a minority to consent. He therefore hoped the House would agree to the suggestions embodied in the Bill.

Clause put and passed.

Clauses 4 to 38, inclusive—agreed to.

Preamble and title—agreed to.

Bill reported, without amendment.

Report adopted.

WATERWORKS BILL.

SECOND READING MOVED.

THE PREMIER (Hon. Sir J. Forrest): I beg to move that this Bill, intituled an Act to make provision for the supply of water to municipalities and other places, be read a second time. Hon. members, no doubt, will recollect that this Bill has been promised for some time past, its object being to empower municipalities or people dwelling in crowded centres to obtain for themselves a water supply. The Bill provides for the proclamation of water districts, and also provides that, subject to certain conditions, certain areas of country included in municipalities or rural districts may be proclaimed water districts; and, after being so proclaimed, these areas may be assessed, and, provided the assessment will produce a sufficient sum to carry out the proposed works, the Government will step in and have the assessment checked, and a survey made of the proposed works. Then, if the scheme is found to be feasible and the rates from the particular water area will produce sufficient to cover interest on expenditure, the Government are empowered by the Bill to introduce a special Act for authorising the construction of the works, and, after the construction of the works, to place them under the control of a manager for supplying water to the locality. The procedure laid down in the Bill is a copy, to some extent, of the system in force in South Australia, where, as members no doubt are aware, the city of Adelaide and other places are provided with water by the Government. The works are based on the principle of being reproductive, and the effect of this Bill will be that any town in the colony desiring to have waterworks, and prepared to pay interest on the construction, and also a sinking fund, can come to the Government and ask that such waterworks shall be carried out. I will glance through a few clauses, and explain them where explanation is needed. Clause 3 provides for the constitution of water districts, and there is power to alter or add to the boundaries of the water district. Under Clause 6, the Governor has power to appoint a manager or managers of the works. Hon. members will notice all through the Bill that, after the particular

works are completed, the controlling power (subject to the Minister) will be the manager appointed by the Governor-in-Council; and the manager's duty will be to manage the works, collect the rates, pay all expenses, and hand over the receipts to the Colonial Treasurer. Clause 7 provides how these water districts may be commenced, as the owners or occupiers may petition for a town district or place to be declared a water district. It is not intended to force the provisions of the Bill on people in a town or district, unless they are agreeable to have them; and hon. members will notice the way in which the Bill provides that the views of the people shall be arrived at. Clause 8 provides that the Governor may order an estimate to be made of the rateable value of the property in a proposed water district, and on receipt of a petition the matter is to be investigated. Clause 9 provides that "upon receipt of such estimate, the "Minister may cause an estimate to be "made by a competent person of the cost "of constructing the waterworks required "for supplying the proposed water dis-"trict; and if, upon receipt of such "estimate of cost, it appears that the "annual rates payable, as provided in "this Act, by such proposed water "district, will yield, after paying all "expenses of management and mainten-"ance, six per cent. by the year on the "estimated cost of the works, he may, if "he shall think fit, lay the two estimates "before Parliament." That would be four per cent. for interest and two per cent. sinking fund. It is not obligatory on the Government to lay the matter before Parliament; but after the initial information has been obtained, then a special Bill has to be introduced authorising the construction of the waterworks, and providing the funds necessary for that purpose. It was thought, at one time, that power might be given under this Bill for the Government of the day to proceed with the works, provided that all the initial information was satisfactory, without a special Bill being passed to authorise the work; but, after giving the matter a good deal of consideration, I came to the conclusion that it would not be desirable in the interests of the Government or the colony, as a good deal might be done, under a general power, that Parliament might not be prepared to approve of in particular cases. The Government will have to come to Parliament and get a special Act, not only to authorise the construction of particular works, but also to provide the money; and it is much better that there should be a fund to be appropriated by special Acts, rather than that the fund should be at the disposal of the Government. Clause 10 provides that "After the pass-"ing of a special Act authorising the con-"struction of waterworks in the proposed "water district, and providing the funds "necessary for that purpose, the Governor "shall issue a proclamation declaring it "to be a water district and defining its "boundaries, and the same shall then be "a water district, with boundaries as so "defined; and the Governor may, if he "thinks fit, from time to time add to, "diminish, or alter the area and boun-"daries of any such water district." Clause 10 deals with the annual assessment to be made; but this provision is not new, as it is based on the law existing already in regard to municipalities. Clause 15 deals with the mode of making valuations, and is copied from the Municipal Institutions Act of 1894, almost word for word. Clause 26 has an important provision that the water rate shall not exceed 2s. in the pound upon the annual value of the rateable land; and it is further provided that "all such water rates shall be levied "and taken as payment for water sup-"plied from the waterworks, at the price "per thousand gallons specified by the "special Act or, subject thereto, by the "by-laws made under this Act; and any "further supply of water shall be charged "to the consumer according to the same "scale, and as measured by a meter to be "fixed upon his land." It has been thought better not to fix the rate in this Bill, because circumstances are not all alike, and in some cases it may be necessary to charge a greater rate than in others; but the rate is not to exceed 2s. in the pound in any year on the rateable value of all the rateable land. If additional water is required, it will have to be paid for. Clause 40 gives general power to the Minister to appoint officers; while the power to make by-laws is set forth in Clause 41. In Clause 43 the Minister is given the same power as the Commis-

sioner of Railways now has to enter upon and take lands necessary, to some extent, in order to lay down pipes, or make dams and other things that may be required in carrying out these works. Clause 46 provides that the Minister may do certain things for the purpose of constructing, completing, extending, or maintaining any waterworks; while Clause 65 sets forth that "All moneys "received by the Minister under the "authority of this Act from each water "district shall be applied, in the first "place, in paying the necessary costs and "charges of and attending the collection "of the same, and in the second place, in "paying the salary of the Manager and "of the officers, servants, and workmen, "whom the Minister may employ about "the waterworks, and the balance of such "money shall be paid by the Minister to "the Colonial Treasurer, who shall appro- "priate the same as follows:—(1.) In "maintaining the waterworks and keeping "up the supply of water in the district; "(2) in paying interest at the rate of "four pound per cent. per annum on the "moneys advanced to the Minister for "expenditure in the district; (3) in "paying a sum equal to two pounds per "centum per annum on the whole of the "principal moneys so advanced, which "sum shall be applied by the Colonial "Treasurer to the discharge of such "principal moneys; (4) in such manner "as the Governor may authorise for "increasing the efficiency of the water- "works in the district." There are other clauses giving power to make regulations for carrying out the purposes of the Bill. I think the Bill will be found a useful one in many places in the colony. There are many towns quite willing to pay a reasonable amount for water, if it can be supplied; and to those places the Bill will be altogether suitable. They will have the knowledge that, if they can show that the proposed works, when constructed, will pay a reasonable interest and a sinking fund, the works will be undertaken from funds supplied by the country; and that is something, because, at the present time, however desirous some of the larger towns may be to pay for waterworks, there is no law under which they can obtain what they desire. It may be said—and the matter has not been lost sight of—that it might be better to place the control of these works under local boards; and I think there is no reason why that should not eventuate later on from what is proposed under this Bill; but at the present time it seems to me that, looking at the smallness of the towns which this Bill is intended to assist, it would be better to have the control placed in a Government department, as is done at the present time in South Australia. Whether this Bill will be availed of to a large extent or not remains to be seen, but I believe it will be availed of in some cases. Be that as it may, I think it will be a useful piece of legislation. It does not provide, as perhaps some would desire, that the Government should provide funds for waterworks here and there, and should supply towns with water at the cost of the Consolidated Revenue. That is not the intention of the Bill at all. I have much pleasure in asking the House to read this Bill a second time.

MR. ILLINGWORTH: This is a very long Bill, with 101 clauses; and as it has been laid on the table only to-night, I think the Government would be only following the wishes of the House if they adjourned the debate. I beg to move that the debate be adjourned.

Motion put and passed, and the debate adjourned.

ADJOURNMENT.

The House adjourned at 8·55, p.m., until next day.