

return already furnished, except for subscriptions. I went further and said I would lay a return on the table with the information he asked for, which is now being prepared by the Audit office. The hon. member is simply delaying this matter for some purpose of his own. Let him deal with it.

MR. DEHAMEL: There can be no difficulty in his finding at once, from the proper authorities, whether any further sums have been paid than are shown as having been paid for advertisements.

THE PREMIER (Hon. Sir J. Forrest): I have answered that. I said I did not believe there was anything else but subscriptions paid.

MR. DEHAMEL: We have only the hon. gentleman's statement that he does not believe there is anything else. I want a definite answer. I think the House is entitled to be treated with proper respect even by the Premier. I think we are entitled to a direct answer to a direct question, and, until this is given, I ask leave of the House to postpone this motion until to-morrow.

Leave given, and motion postponed accordingly.

ADJOURNMENT.

The House adjourned at ten minutes past 4 o'clock p.m.

Legislative Council,

Wednesday, 21st December, 1892.

Scab Act Amendment Bill: first reading—West Australian Trustee, Executor, and Agency Company (Limited) Bill: first reading—Jury Exemption Bill: third reading—Transfer of Land Bill: second reading; committee—Adjournment.

THE PRESIDENT (Hon. G. Shenton) took the chair at 3 o'clock.

PRAYERS.

SCAB ACT AMENDMENT BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

WEST AUSTRALIAN TRUSTEE, EXECUTOR, AND AGENCY COMPANY (LIMITED) BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

JURY EXEMPTION BILL.

This Bill was read a third time, and passed.

TRANSFER OF LAND BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): This Bill, which has been transmitted to us from the Legislative Assembly, has been prepared by the Commissioner of Titles, and revised by the Attorney General. The object of it is to consolidate the law relating to land transfers, and also to make some additional provisions which are considered necessary for the proper working of the department. It must be borne in mind that the Commissioner of Titles has been at the head of his department for a period of about 17 years, and has consequently had a large experience in the working of the present law, and the amendments contained in this Bill are his recommendations. It is also to be borne in mind that the Attorney General has for many years been working for his clients under the present Act, and, like the Commissioner of Titles, he is consequently well acquainted with its deficiencies, and is aware of the requirements necessary to make the law as workable as possible. I myself have also had considerable experience in this work, and as far as I can see the amendments contained in this Bill are admirable ones, and are such as will conduce to the better working of the Land Titles Department. The object of the original Land Transfer Act was to simplify the mode of dealing with the transfer of land and to render dealing with land less costly. This was carried into effect by the establishment of a public department with a legal officer at its head, and by means of registers all transfers, mortgages, and other dealings with land are given validity to by the registration of the documents. This Bill is brought in, as I have said, mainly to consolidate the present law; but there are some few alterations, the

chief of which I propose to say a few words upon. I may say, preliminarily, that this Bill is of a highly technical nature, and I can, therefore, hardly expect my hon. friends who have not had a legal training, to be interested in or take any part in the discussion upon it. At the same time I have no doubt but that I shall be able, in the short explanation I shall give, to make the proposed amendments plain to the minds of hon. members. It is provided by the Bill that where a person applies to bring land under the operation of the Act, and it is discovered that he has been in occupation of a certain block which does not exactly tally with the description given of the ground, still the Commissioner of Titles may grant the applicant a certificate to the land which he has been in occupation of. Some hon. members are aware that in former years the system of surveying in this colony was certainly not an accurate one. A man was sometimes given a parcel of land which was supposed to contain 1,000 acres, and in all probability he got more than that quantity. In most cases the surveys were very liberal. In some instances lines which were described as being due North and South or due East and West, have been found, on re-survey, not to run that way, and that there is a variation. It is proposed by this Bill that a man shall have the land marked out by the pegs, notwithstanding any error in the survey. This is one provision which, in the working of the present statute, the Commissioner has found to be absolutely necessary—a provision by which a man shall get the land he has been in occupation of and which it was intended he should have, and which by an error has not been so described in the Crown grant. I may say that a similar provision is contained in this Bill with regard to town grants. It is provided that where a section shows on re-survey that there is any excess or deficiency such excess or deficiency must be apportioned between all the occupants. On re-survey of the lands along Hay Street, between William Street and Barrack Street, it has been found that there are nearly two feet in excess of the quantity shown by the grants from the Crown, and the question arose as to who was to have this extra two feet. No one man

can claim it, but under the provisions of this Bill this excess will be divided proportionately. I may say that the surveyors in former times—whether it was that their instruments were not perfectly accurate, or that they did not think it necessary to be absolutely correct—in all cases, I believe, gave very liberal measurements. I have never heard of a case where the ground has been found to be less than that shown on the Crown grant, so that no one will lose anything by this provision. One of the provisions of the present Act is that a certificate can only contain one block, or a number of blocks which are contiguous to one another. From his experience the Commissioner thinks that this may be extended so as to include all blocks, whether contiguous or not, which, in the opinion of the Registrar, can be conveniently and sufficiently shown on the plan. This will certainly be an advantage to the public, because these certificates cost money, and the more blocks, therefore, that can be put into one certificate the better. Then, in the present law relating to this subject, there is no provision that the certificate of title shall be conclusive evidence as to easements, and this is inserted in this Bill. The Commissioner also proposes that easements existing shall be notified on the certificate as encumbrances are, and that when land is sold under special conditions as to buildings and so on such conditions shall be notified on the certificate in the same way as any encumbrance is endorsed. I have no doubt that hon. members are aware that by the provisions of the Land Transfer Act, if a judgment is obtained against any person who owns land and a writ of execution is issued against it, such writ may be lodged in the department, with a description of the land, and if a sale takes place within three months, a transfer by the sheriff shall be deemed to have the same effect as a transfer by the proprietor. In the working of this difficulties have arisen, for sometimes the certificate cannot be obtained. The consequence is that after the sheriff has sold, two certificates exist for the same land. To obviate this there is a provision in this Bill by which the Registrar may call in the old certificate, and if the holder does not deliver it up the Registrar may then take him be-

fore a Judge, who can compel him to do so. While on this subject I may say that it is proposed to make one very radical alteration in the law. Originally, I think, the intention of the legislature was to make compulsory the registration of all dealings with land and mortgages, yet that intention was not so clearly expressed as it might have been, and the court has been forced to come to the conclusion that any transfers by the Sheriff are subject to all equities. By this Act it is proposed to make registration compulsory in every case, and no transaction or equitable deposit or mortgage which is unregistered shall hold good against a subsequent dealing which is registered—in fact registration is essential to the validity of the transaction. Unless a document is registered, or a *caveat* is lodged, when the Sheriff sells he will give a clear title without any encumbrance. As I say, I think this was the intention of the Legislature in the first instance, but it was not clearly expressed. It is obvious, I am sure, to hon. members that this provision will be a protection to the public, and it will have a good effect upon those who deal in land or lend money upon it, for it will make them careful to register. There is another important provision in this Bill: that having regard to sub-leases. It is proposed to give the holder of a lease power to sub-lease, and such sub-lease may be registered in the same manner as a lease is at the present time. There is another provision essentially of benefit to the public, and it is this: It is provided that any mortgage or lease may be extended by writing on the back of the document the words extended for one, two, or three years, as the case may be, and this will suffice without any new instrument. At present if a man holds a lease, and wants to renew it at the end of the term, there must be a new document. The same thing applies to mortgages, but by clause 105 no new document will be required. All the parties will have to do will be to go to the Registrar and write on the back of the existing document the words extended for one, two, or three years, and this will be as valid as if there were a new instrument. Section 151 deals with another important matter. As I have said, it has been discovered that in many cases the

survey marks do not coincide with the description in the title deeds. This is not peculiar to Western Australia, for in the other colonies the same thing has been discovered. In Victoria in 1890 they passed a Bill which contained the same provision as appears by clause 151 of this Bill. It says: "The survey boundaries "of any Crown section location allotment "or other parcel of land marked on the "ground at the time of the Crown survey "thereof and shown by survey posts pegs "trenches or other survey marks shall as "to any such parcel of land heretofore or "hereafter granted or demised by the "Crown be and be deemed to have been "the true boundaries of such parcel of "land whether such boundaries upon "admeasurement are or are not found to "be of the same dimensions or to include "the same area as the boundaries or "description of such parcel given in the "Crown grant." This was adopted in Victoria after the recommendation of a Royal Commission. Greater difficulties had arisen there than have arisen here, on account of the land being more valuable. The Royal Commission recommended the adoption of this very clause, so far as I have read it, and as a consequence it became law. Only recently there was an intercolonial conference of surveyors held in Melbourne, and they came to the unanimous conclusion that this was the only true and proper way of dealing with the differences between the survey posts and the title deeds. They said that the survey posts showed a man what he expected to have, and it was only right that he should have it. It was considered that it would be highly improper to take advantage against the owner of an error of a Crown surveyor in giving a description. I read the clause to a certain point, but we, in this Bill, propose to go further. We say, in addition: "But it shall be lawful for the "Surveyor General to alter the survey "boundaries marked upon the ground as "aforesaid so that however such alteration does not interfere with any improvements which may have been in "good faith effected by the lessee or "grantee from the Crown." This is inserted for this purpose: supposing it is found that there is some difference between the survey pegs as laid down and the title, it may be advisable to alter

the pegs to coincide with it, and if it does not affect the individual the Surveyor General is empowered to make the alteration. This is giving a slight discretion to the Surveyor General, but he can only exercise it with the consent of the Governor-in-Council, and hon. members may take it that no alteration would be made which would be detrimental to the person immediately concerned. There are various other provisions in this Bill which are all deemed to be very proper and useful amendments to the law as it exists. I do not, however, think I need explain them. I have explained the principal ones, and I do not think I need say more now other than to strongly recommend this Bill to the consideration of hon. members. It is a necessary Bill, and it will conduce to the better working of the department. It will reduce the cost of dealing with land, and will be otherwise beneficial to all concerned in connection with matters relating to land. I move, sir, that the Bill be now read a second time.

THE HON. G. W. LEAKE: At the risk of being thought captious, I move that this Bill be read a second time this day six months. Let me call the attention of hon. members to the vast importance of this Bill and the meagre attendance we have. One hon. member, who has the most interest in the working of this Bill is, unfortunately, absent; and, besides this, I do not think it prudent to attempt to bring about such radical changes at the end of a session. With reference to the survey posts being considered to be the true boundary, there are already two Acts on the Statute Book. To my mind, when a man gets a title from the Crown, he must rely on the accuracy of it, otherwise his title will convey but very meagre information of what he has. I drew, under, the guidance of Mr. Hocking, the original Act. In many cases it has been amended since, and in some of them the amendments, in my opinion, have not been in the right direction. At all events, I think we are bound to pay some attention to the wishes and interests of such proprietors of land as the Great Southern Railway Company. They will naturally object to the uncertainty as to whether they shall hold their land by the survey pegs, or the particulars in

the Crown grant. I have no wish to obstruct the course of legislation, but I think we are not able now to give that consideration which a Bill of this magnitude demands. There is also another gentleman of this House—an Irish barrister—the Hon. Mr. Hackett, who is absent, and it is due to the country that it should, in a matter of this kind, have the benefit of his skill and learning. I have heard nothing of the Bill until now; no petitions have been received in favour of the alterations, and no evils have been stated to exist. That the survey pegs should be taken to be the true boundary I cannot agree with, because they may be put down as the result of fraud, and the extent of a man's property should not be made to depend, firstly, on the skill or ignorance of a surveyor, and secondly, on the honesty of the man himself. Here is a curious thing: the Surveyor General may alter the boundaries, but he is not to interfere with the improvements. The improvements of whom? The improvements of the jumper. I do not wish to raise any factious opposition, but considering the magnitude of the subject and the meagre attendance, I think it would be better that this Bill were read a second time this day six months.

Amendment—put and negatived.

Question—That the Bill be now read a second time—put and passed.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not wish to go into committee at once, if there is any chance of the Bill receiving any more consideration at the hands of hon. members. Are we to wait until the Hon. Mr. Hackett thinks proper to come back from Melbourne, or why should we delay because the Hon. Mr. Wright chooses to go to Albany instead of being here? We have a very large attendance this evening, considering the technical nature of the Bill, and hon. members have listened carefully to what I have said. I remember being in the House of Commons when the West Australian Constitution Bill was before that body, and although the House consists of over 600 members, all left except about 20 when the subject was called on. Is it likely we can gain anything by postponing the consideration of this Bill in committee? The fact of a man being

an Irish barrister does not say that he is a man qualified to deal with matters like this. To enable him to grapple with a subject like this he must not only be a lawyer, but he must have been in constant practice, and generally conversant with matters appertaining to this Act. As to the Hon. Mr. Wright, the Bill does not affect him. I spoke to him particularly about the 151st clause, and explained its provisions, but he did not tell me that he was dissatisfied. How could he be? The land his Company holds was surveyed by themselves, and checked by Government surveyors, and we may be sure, therefore, that they have not got less than they are entitled to. Even supposing they had, does the hon. member think that the Government would take advantage of an error of that kind?

THE PRESIDENT (Hon. G. Shenton): I think the hon. member is travelling beyond the question.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I will not pursue my remarks to any very greater extent. The Hon. Mr. Leake said we should wait until the Hon. Mr. Wright returned, but this Bill does not, as I have said, affect him; it rather more affects adjoining proprietors who have been in occupation according to the pegs. I ask the House to consider this Bill in committee now.

THE PRESIDENT (Hon. G. Shenton): I think hon. members should accept the proposition of the Colonial Secretary. If members do not attend I do not see why we should not go on with the work.

THE HON. G. W. LEAKE: By going into committee now, the Colonial Secretary is virtually suspending the Standing Orders.

THE PRESIDENT (Hon. G. Shenton): No.

THE HON. G. W. LEAKE: I say virtually.

THE PRESIDENT (Hon. G. Shenton): The Standing Orders provide that the House may at once go into committee after the second reading.

Question—That the House do now resolve itself into committee—put and passed.

IN COMMITTEE.

Clauses 1 to 101 agreed to.

Clause 102:

THE HON. D. K. CONGDON: Is there any shorter way of dealing with

this Bill without putting the question after each clause.

THE CHAIRMAN (Hon. G. Shenton): Not without suspending the Standing Orders, and there is not a sufficient number of members present to do that.

Clause agreed to.

The remaining clauses and the schedules were passed, and the Bill reported.

ADJOURNMENT.

THE COLONIAL SECRETARY (Hon. S. H. Parker): In order to meet the wishes of hon. members I move that the House, at its rising to-morrow, adjourn until January 5th.

Question—put and passed.

ADJOURNMENT.

The Council, at 9-30 o'clock p.m., adjourned until Thursday, 22nd December, at 7-30 o'clock p.m.

Legislative Assembly,

Wednesday, 21st December, 1892.

Sums paid by Government to Newspaper Proprietors—Karri Piles, Fremantle Jetty—Government Geologist's Report upon Murchison Goldfields—Scab Act, 1891, Amendment Bill: third reading—West Australian Trustee, Executor, and Agency Company, Limited (Private), Bill: third reading—Message from His Excellency the Governor: Estimates—Action of Police in recent Prosecutions of Licensed Victuallers—Cost of Government Advertisements in Perth Newspapers—Swan River Harbor Works and Tramway Bill: second reading—Bills of Sale Act Further Amendment Bill: second reading—Adjournment.

THE SPEAKER took the chair at 7-30 o'clock.

PRAYERS.

SUMS PAID BY GOVERNMENT TO NEWSPAPER PROPRIETORS.

MR. R. F. SHOLL, in accordance with notice, asked the Colonial Treasurer if the returns already laid upon the table, in regard to the moneys paid and due to the proprietors of the various papers mentioned, included all moneys paid or due to them for all services rendered, whether by advertisements or otherwise?