

had not been accurately known. There would soon be a time-ball at Fremantle; and no port of any prominence was without such a contrivance for regulating ships' chronometers. The Observatory would almost immediately become an educational establishment for the instruction of navigators, surveyors, and engineers, as in Sydney and Adelaide. Again, at the Observatory one could ascertain accurately the time of day, which could not be done until recently. The Astronomer had a magnificent telescope, fitted with photographic apparatus, by which the whole of the heavens in the southern hemisphere could be photographed. It was something to have such a scientific institution in our midst. Now that the colony was getting out of swaddling clothes, it must do something for science, to show that we were not mere hewers of wood and drawers of water. In other countries, not only the Government but private individuals endowed observatories. The Observatory was a most democratic idea, and it was surprising to find an hon. member from a democratic constituency opposing it. In other colonies the labour vote was always cast in favour of education and of learned institutions; and surely no one would object to having one scientific institution in this community.

MR. MORAN: Still, where was the necessity for a second astronomical observer?

THE PREMIER said he would investigate the point.

Vote put and passed.

Photo-lithographic, £6,683 16s. 10d.—agreed to.

This completed the votes for the department.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 10:30 o'clock, until the next evening.

Legislative Assembly,

Friday, 17th November, 1899.

Question: Postal Commission, Recommendation—Cemeteries Bill, first reading—Executors' Commission Bill, second reading (negated)—Laud Act Amendment Bill, second reading (concluded)—Perth Tramways Amendment Bill, second reading; Select Committee—Motion: To Postpone Orders (withdrawn) Sluicing and Dredging for Gold Bill, in Committee, Clause 5, progress—Adjournment.

THE SPEAKER took the Chair at 7:30 o'clock, p.m.

PRAYERS.

QUESTION—POSTAL COMMISSION. RECOMMENDATION.

MR. RASON asked the Premier, Whether it was the intention of the Government to give effect to the recommendation contained in paragraph 62 of the report of the Royal Commission on the Postal and Telegraph Service, in reference to the monthly deduction from the salary of G. P. Stevens.

THE PREMIER replied:—Having gathered that the opinion of this House is in accord with the report of the Royal Commission on the Postal and Telegraph Service in regard to this matter, the Government propose to give effect to it.

CEMETERIES BILL.

Introduced by the ATTORNEY GENERAL, and read a first time.

EXECUTORS' COMMISSION BILL.

SECOND READING.

MR. LEAKE (Albany: in charge of the Bill) said: I move the second reading of a Bill intituled "An Act to amend the Law relating to Executors." The whole scope of the Bill, so to speak, is to be found in Clause 4, whereby an executor may petition the Supreme Court to be permitted to charge out of the estate of a deceased person a commission. As the law now stands, an executor is not entitled to make any charges against the estate, except for actual expenses; and this Bill will place the executor on the same footing as an administrator. The principle has already been recognised by an Act in force in the colony, whereby the West Australian Trustee, Executor and Agency Company is enabled to carry on

business; and it is thought the time has arrived when there should be no distinction between the position of an executor and that of an administrator with regard to the right to charge a commission. I would point out to hon. members that by the Bill the executor cannot as a right demand or claim this commission: he must get authority from the Court to make the charge; and of course the Court would in all cases have strict inquiries made, and would satisfy itself, I suppose by affidavit or otherwise, that the case was one in which the executor might properly be permitted to charge commission, and would then adjudicate. The commission would not, I presume, in any case exceed five per cent.: that is the usual charge which is allowed in these cases. We must remember that very often an executor undertakes duties which, at the commencement, appear to be very light and simple, and yet as time goes on, his responsibilities are increased, and so, too, is his work. The Bill, while it recognises the claim of an executor to payment for his services, also imposes upon him the duty of filing his accounts. As the law stands at present, there is no obligation upon an executor, by statute at any rate, to file his accounts. If it be desired to compel him to do so, one of the cestuique trusts must sue him to bring him before the Court. No further explanation is required, and hon. members will see that Clauses 3 and 4 contain the gist of the Bill, which I submit for the consideration of the House.

THE ATTORNEY GENERAL (Hon. H. W. Pennefather): The Bill, comparatively speaking, appears unobjectionable, except in one respect, namely, that it does not appear to be made clear that an estate may be called on to pay executors' commission in respect of services already rendered.

MR. LEAKE: That will rest with the Court.

THE ATTORNEY GENERAL: It is a matter which requires much consideration. People have made wills under the apprehension that no commission would be charged, and the question is whether it is wise to make this legislation retrospective, and charge estates with commission which it was never intended should be charged. This point has given

rise to some objection on the part of several people to whom I have spoken out of the House, but beyond this, so far as I can see, there is no reasonable objection to the measure.

MR. JAMES (East Perth): I hope the House will not approve of the Bill, because to do so would be to adopt a principle entirely wrong. From time immemorial executors have been appointed as trusted friends, and trusted friends only, of the testator, and filled the position not as men of business, but as men in whose personal integrity and honour there is confidence. That is well-known amongst people generally, and even if this Bill were passed and applied only to wills made after it came into force, many years must elapse before people generally become aware that the law in operation for so long had been altered. At present when a testator appoints a friend as executor, the latter is perfectly free to accept or decline the trust.

THE PREMIER: An executor who gets no pay will not look after his work.

MR. JAMES: But an executor need not undertake the work, and if he does he knows there is no remuneration. As the Bill casts no new obligation on the executor, and as he is perfectly free to say whether he will act as a friend or not, the effect of the Bill is that a man would be actuated, not by motives of friendship towards the testator, but by the hope of receiving remuneration. We know there are executors who take on their shoulders this responsibility and neglect their duties; but this Bill, whilst proposing to give remuneration, does not cast, as I say, any additional obligation.

MR. LEAKE: Yes; the filing of accounts.

MR. JAMES: There is absolutely no new obligation. Executors are now bound to give accounts, and if they are not supplied when requested by a beneficiary, an executor is liable to a suit for maladministration; and this Bill simply imposes a common law liability which has existed from time immemorial.

THE PREMIER: Would you not have the Bill retrospective?

MR. JAMES: That the Bill is retrospective is objectionable in any case. Thousands of people have made wills relying on the law as it is to-day, and it

will be a long time before testators become aware of the effect of the legislation proposed.

THE PREMIER: What will testators do; they must appoint someone?

MR. JAMES: True; but they desire a man whose financial position is absolutely beyond question. There is a provision in the present Act that if a testator wants to appoint a body to whom commission would be paid, he can appoint the Trustee Company, who must at all times have available a certain amount as an absolute guarantee that any estates entrusted to them will be looked after, and a sufficient sum to meet contingencies. But, in any case, the House will agree with me that Clause 4 of the Bill as drawn is nothing less than unjust. It says that an executor shall be entitled to apply to the Court, and obtain commission, at any time after the passing of his accounts; and it is notorious that accounts have not been passed in hundreds and thousands of estates in this country in connection with wills of persons who have died as long ago as 20 years.

THE PREMIER: It would eat up an estate.

MR. JAMES: Would it be right to allow executors who have performed duties voluntarily, without any expectation of payment, to turn round, and, by virtue of the Bill, ask remuneration for services rendered as a friend?

THE ATTORNEY GENERAL: The Court might not give the remuneration.

MR. JAMES: But the Court would say at once that Parliament had recognised a *prima facie* right to commission. I am at loss to understand how a provision so far-reaching and so unjust as Clause 4, could be proposed. Absolutely no reason has been shown for departing from a principle which has been part of the common law for all time. All that is said is that because persons have performed certain duties they have a right to be paid. If so, we might as well pass a law that any person, acting as a friend, shall have a right to sue for services thus rendered, and services which, if he had not desired to render them, he might have resigned to someone else.

MR. MORAN (East Coolgardie): Even before the member for East Perth (Mr. James) spoke, I had determined to oppose this Bill, which, involving

as it does a very large principle, should not be introduced in this almost unobserved manner at the end of the session, and in a thin House. It is a gigantic right which the Bill affects, a right very often affecting minors whose guardians have gone, and involving the change of a principle which has come down with all the other fundamental bases of our common law. One feels uncomfortable at the suggestion of so sweeping and sudden a change, and it is a matter which ought to be considered for at least a session or two in order to give thorough publicity. I should be sorry indeed if opportunities were given to executors to fritter away estates, because we know how easy it is to enter into litigation and all sorts of work for private interest, if opportunity and inclination be there. I should regret to see the Bill become law, this session at any rate, and my conservative instincts teach me that we should go a little slowly in matters of this kind.

MR. RASON (South Murchison): I trust hon. members will pause before they pass such a Bill as this. Anyone who has paid attention to the question of trust funds must be aware that throughout the colonies, and indeed throughout the Empire, there has been a vast amount of maladministration on the part of trustees, and we cannot hedge the law in too closely. The whole history of administration of intestate estates, and of estates left in the hands of voluntary trustees, points to maladministration; and there is no getting away from the fact. As the law now stands, any friend prepared to perform the duties as a friend without reward, can administer an estate; and now it is proposed to offer an inducement to some one who is not prepared to act as a friend, but for monetary consideration. If monetary inducement be desired, there are recognised institutions to undertake the duty, and also individuals who are men of property with something to lose in the way of reputation; and it is to such individuals and to such institutions we should look in cases of the kind.

MR. VOSPER (North-East Coolgardie): I entirely agree with the member for South Murchison (Mr. Rason) in what he has said as to maladministration of estates, and for that reason I shall give my support to the Bill. That hon.

member says very truly that it is a notorious fact for a long time past estates have been maladministered, and as accounts are not filed, the public are entirely in the dark. The member for East Perth (Mr. James) said that while under the Bill new rights are given to executors, no new obligations are imposed; but I hold the contrary view, because under Clauses 3 and 4 accounts must be filed within 12 months of the passing of the Bill, or 12 months of the granting of the probate.

MR. MORAN: That is the common law now.

MR. VOSPER: I am repeating what the member for East Perth (Mr. James) told the House.

THE ATTORNEY GENERAL: That is according to the rules of Court now.

MR. VOSPER: The member for East Perth (Mr. James) told us that any person interested in estates can obtain accounts from the executor; but in the Bill, together with the right to obtain remuneration, the condition is imposed that accounts shall be filed.

MR. RASON: Supposing someone disobeys Clause 3?

MR. VOSPER: I suppose the Court will take that into consideration, and not pass the commission until the accounts are produced. No man would allow a commission on accounts he had never seen. Here is a statutory obligation laid down that the executor shall file accounts within a certain time, and when the Court has passed them he will be in a position to claim commission. On the question of commission I think the labourer is worthy of his hire, whether he be an executor or an executioner.

MR. JAMES: Supposing a man does a thing for nothing and afterwards charges?

MR. VOSPER: Executors are in this position: They are called upon by the terms of the will to do something, and are not told of the request until after the death of the testator. They suddenly find these duties imposed upon them, and they have either to refuse to discharge them and displease the relatives of the deceased, or to take a burden upon their shoulders and receive no remuneration. They are placed in an invidious position. We attach more importance to the request of a deceased person than to persons

living. When a person is dead most men feel rather doubtful about refusing a request of the sort, the result being that many men take upon themselves duties of executors and then, through pre-occupation arising out of their own affairs, they do not perform the duties. Year after year passes by and people, although not swindled of money, do not obtain all they are entitled to, owing to delay, the whole thing being made a hash of because the executors are more or less unable to perform the duties. If we could amend this Bill in such a way as to impose a penalty for not getting the accounts passed—

THE ATTORNEY GENERAL: The rules provide for that.

MR. VOSPER: I think it is too much to ask a man to perform without remuneration duties which may involve a lot of his time.

THE PREMIER: He does it voluntarily.

MR. VOSPER: I know he does, but still I think that when a man performs business operations he is entitled to remuneration. It would be a good thing to make trustees comply with certain conditions for the protection of an estate, and to bring about a rapid settlement of affairs. I think the result of the Bill as a whole would be beneficial.

HON. S. BURT (Ashburton): This is a Bill of some importance, because all measures that make an inroad upon a law which has stood for centuries must be of importance. I do not think this question has been in any way before the House, or talked about generally in the country. It is something quite new. There are two aspects of the measure, one being whether the old common law rule, that an executor should not claim remuneration, should be now abolished without notice, so to speak, and the other whether that rule would be respected. At the present day, when very little is done without payment, we find cases in which men have been in the habit of acting for others without remuneration, and I do not think we should be too apt to insist upon payment being made when it is not asked for. I believe there is nothing to show us that in this country persons who make wills are unable to find friends to look after their estates after death. As has been pointed out, if friends nominated decline to do it, the

Court can then grant administration to other classes of people—amongst others the next of kin, the widow, or a creditor—and in that case, inasmuch as the persons are appointed by the Court and the office is not a voluntary one, so to speak, they are entitled under the present law to go to the Court and obtain commission. That is the law at the present time with regard to executors; but the law has never touched the office of executor. The office of executor is supposed to be a voluntary one. I do not see any reason why Parliament should say every executor may be paid, because an executor is not bound to act, and a testator may desire to save his estate the five per cent. commission. If he has a friend who is willing to do the work, why should not that friend be allowed to do it? In the case of this Bill, there would be a commission staring executors in the face, if they liked to apply for it. I am of opinion that at the present time no reason has been shown for altering the law. In regard to making the measure retrospective, I do not think that those responsible for it have considered in any way the result of Clause 4. It seems to me that every executor under a will made 50 years ago who is living now might file his accounts and ask for his commission. I do not think the House would for a moment consider that would be a proper thing to do. Many of these estates are at rest, the accounts closed, probably the next of kin dispersed, the solicitor gone, and so on; but Clause 4 would allow commission to any executor of the will of a deceased person “whether probate of such will shall have been granted to such executor before or after the date hereof.” There is no time limit.

MR. ILLINGWORTH: Who is to pay when the assets have disappeared?

HON. S. BURT: That shows the absurdity of the clause. The assets may have been distributed. Again, I can think of several estates in which I have been executor myself, in which it might be possible to rake up a few pounds which have not been accounted for, file a final balance-sheet, and go to the Court and ask for commission. The executor of a will, probate of which was granted before the date mentioned, might bring in his statement of accounts after a period of

perhaps 10 or 20 years, though he had never done so before. It seems to me that the retrospective action of the Bill is altogether too far-reaching. In regard to the other portion of the Bill I have no very strong opinion upon it, but I do not think it would be a proper thing for Parliament to pass an alteration of the law of this importance without having some expression of opinion from the public to guide us. I was going to instance the question of guardians. Guardians are very often appointed by testators, and they get no remuneration at all, either under the common law or by this Bill. Then, again, there is the question of a trustee, who has infinitely more to do than an executor, who has simply to pay the debts of the estate. What makes estates hang in hand such a length of time is that they are in trust, and it is the trustee who does the work. I think that the framer of this measure must have had in his mind the case of the trustee and not that of the executor.

MR. ILLINGWORTH (Central Mur-chison): I notice that this Bill comes to us from another place. The hon. member who introduced it was not so particularly enthusiastic as he usually is about Bills in which he is deeply interested, and I can imagine that he is not very desirous of seeing the Bill passed. It seems to me that the Bill would be dangerous. There is one suggestion I would make, and it is this: The member for the Ashburton (Hon. S. Burt) pointed out that all executors may come in and claim commission. A question which he did not take note of is, who is to pay? Assets of the estate have been administered, the different legatees have received their portions, and now an executor comes to the Court and asks for commission. I again ask who is going to pay?

MR. MORAN: Each one is liable, I suppose.

MR. ILLINGWORTH: Even that brings it into confusion. The next thing that presents itself is that there are a good many wills in which the testators make provision for paying the executors. It is now proposed that, in addition to what the testator thought to be sufficient, commission shall be paid as well. Of course it may be that the Court would intervene in such a case as that. Then, so far as I am able to judge, there are a

good many wills under which legatees are executors, and are actually executing the will in their own behalf. If there are a wife and four or five children, and the wife and eldest son are appointed executors under the will, it is hardly a fair thing to enable them to make a charge for commission upon an estate they are administering for the benefit of themselves and many other members of the same family. These are objections that occur to me. When a person wishes to make his will, he generally asks another person whether he will act as executor, and the person says "Yes." If afterwards this person does not feel disposed to act, he can hand the duty over to some society or place the estate under the administration of the Court. So far as I can see, the principal object of this Bill is to compel persons to say, "Well, if we have to pay commission to executors, we will hand the estate over to the Executors' Society." That would be the effect of the measure to a very large extent. It may be good or bad, and that is a question for people themselves to consider. The measure is far wider-reaching in its effects than appears on the surface, and I think it would be well to wait for further consideration. For that reason I hope the House will reject the second reading of the Bill.

MR. HARPER (Beverley): There is one objection to this Bill that was not touched upon by the member who moved the second reading, nor has the point been touched upon by any legal gentleman who has yet spoken. It appears to me that under the Bill an executor who takes possession of an estate can get his accounts passed at the end of the first year, get his commission, and then resign: there is no penalty for giving up the estate, and the executor may then leave the colony.

MR. JAMES: Suppose he does nothing, someone has to be appointed in his place to finish the work.

MR. HARPER: After the executor gets his commission there is no obligation on him to carry out the work.

MR. LEAKE (in reply): Hon members who have not spoken in favour of this Bill seem to be half-hearted in their opposition to it. In any event, an executor must apply to the Court for his commission. The Bill does not give him power

to pocket the money himself, so that there is ample protection for the estate. It has been pointed out to me that under Clause 3 every executor shall, within twelve months, file accounts. Of course that undoubtedly is a very wide enactment, because "every executor" will include all executors alive at the present moment, and these executors will have to file accounts when the estate may have been closed years ago. That is a point which has apparently escaped the draftsman, but it can be rectified in Committee. I suggest that there should be some alteration in the Bill in that respect. I may tell hon. members this is not my Bill: I am merely in charge of it at the request of an hon. member of the Upper House, and I moved the second reading of the measure because I see no objection to the principle contained in it.

THE ATTORNEY GENERAL: What about the retrospective effect?

THE PREMIER: Has the Bill been well drafted? I suppose the Parliamentary Draftsman drafted it.

MR. LEAKE: I have seen better-drafted Bills. The retrospective effect is of course not a satisfactory element in any Bill. I always object to retrospective legislation; but here the retrospective effect is safeguarded by the necessity for an application to the Court. That is the way I meet that objection; and as to the suggestion that there is no penalty for the purposes of Clause 3, I am sure the member for South Murchison, who is a justice of the peace, knows that the breach of a statutory mandate is a common law misdemeanour, and punishable on indictment before a jury. Therefore there is a remedy. I hope hon. members will permit the Bill to go into Committee, and I think the objections pointed out on the second reading can be met, and the Bill made workable. I appreciate everything that has been said. If hon. members remember that nothing can be done without an inquiry first having been made by the Supreme Court, I fancy the interest of all parties will be properly protected. I admit this is an innovation in the law that has existed for centuries, but age is not always a recommendation. I think we may very well recognise the principle. This Bill I believe is taken from the South Australian statute-book.

THE ATTORNEY GENERAL: Not Clause 4, surely.

MR. LEAKE: I have not compared it with the South Australian Act. At any rate if there is a very great objection to the retrospective clause, we can alter that in Committee.

Question put and negatived, and the Bill rejected.

LAND ACT AMENDMENT BILL (MINING).

SECOND READING.

Debate resumed from 26th October, on motion by the Commissioner of Crown Lands for second reading.

MR. WILSON (Canning): When I moved the adjournment of the debate, I did so because I saw there was a great danger under Clause 7 of perpetuating what has been proved to be such a curse on the goldfields—the dual title, in connection with mining leases in timber country; and that clause seems to be the main clause of this amending Bill. I do not think any owners of timber country would object for a moment to miners pegging out leases on timber concessions. But at the same time we contend that it would be very bad indeed if miners had the right, which both this Bill and the original Act give them, to remove the timber on their leases. That, I am pleased to see, is obviated to some extent by the amendments tabled by the Commissioner of Crown Lands. These amendments will give the timber lessees the right to the timber on the mining leases. Still I think there are some other matters that will have to be looked into. Although the timber lessees have the right to the timber growing on mining leases, there appears to me to be no right to construct railways or make jinker tracks through the mining leases. Anyone having a knowledge of timber country in the ranges knows that the country is so rough and mountainous that you have to study very much the contour of the country when laying down your railway; and it might easily happen that mining leases, being in timber concessions, would absolutely block the timber lessee in getting from one portion of his lease to another with railways, in order to work the timber country beyond the mineral leases. I propose when the Bill is in Committee to move some amendments to

Clause 7, to enable the timber lessee to carry his railway through mining leases in order to get the timber, not only from the mining leases, but from the country beyond. Then there is another point which seems to have escaped the attention of the Commissioner of Crown Lands. It is that the company or the holder of timber country may possibly have been paying rental for many years for country which is pegged out by miners. It is a well-known fact that timber companies take up large areas, as much as 75,000 acres in one lease: they take it up with the object of having a supply of timber to last for a number of years, say 15, 20, or 25 years, as the case may be; and although these companies may have been paying rental for 10 or 12 years, for timber country in reserve for their mills, and for country they have not worked, this country might possibly be pegged out, and no provision is made to give the company compensation for the rental already paid. I think the Bill ought to be altered so that at any rate the money paid to the Government for rental of the land pegged out by miners should be returned in the shape of compensation to the timber lessee. More especially is this equitable when we take into consideration that timber lessees get their country for £30 per square mile per annum, and mining lessees pay £1 per acre, so that the fact of the country being pegged out by miners will be the means of very largely increasing the revenue to the Government. The Government could well afford it, and it is only fair that the timber lessees should be compensated for the rental paid for the country taken from them, and from which they have received no advantage. There is another provision in this Bill which I see there is little need for, and that is Clause 5, which empowers the timber lessee to connect his railway with the Government railways, subject to the rules of the Railway Department in regard to private sidings. When the Land Act was before Parliament last session it was well understood by every hon. member that it was a fair thing, and right, that the timber companies should have the facility of connecting their railways with the Government lines; and not only to assist the timber companies, but also to bring

traffic to the Government railways. That was a wise provision; but what do we find? The Railway Department want to call these connections with Government lines "sidings."

THE PREMIER: There is the control.

MR. WILSON: It is not a question of control: it is a question of charging an annual rental. The timber companies have to pay, and always have paid, for the construction of the necessary connections with the Government lines, and in some instances the companies have paid very heavily. The companies further have to pay a proportion of the expenses of the stationmaster and the upkeep of the station to which they connect, and why should the department wish to add to the burden of the timber people by charging them an annual siding rental? I say it is not a question of siding, because they are not sidings. Take the company I represent: my company connected at Dandalup and the siding runs right up to the station, yet there is no siding for our use. The trucks come from the mills and are put on to the Government sidings in the yards, but that is a mutual advantage. There is no fairness nor equity in attempting to inflict companies with an annual siding charge when the companies have no special siding accommodation. That amendment ought not to be made under Clause 5. It is not necessary, and it is only, to my mind, a means of squeezing an extra sum of money out of the people who are bringing such enormous traffic to the Government railways. There is another amendment which I notice, and which is objectionable, and to which I desire to call the attention of the Government. Section 113 of the old Act is to be amended by striking out that portion which provides that the deposit paid by the applicant for timber country need not necessarily be forfeited if the application is abandoned. I cannot see why that provision should be struck out. I do not know whether any special application has been made, for which a large deposit has been paid and which the Government are desirous of returning. If this be so, we should be careful before passing the amendment. I can see no objection to the section in the Act which we passed last year, and which provides that a deposit shall be put down by the applicant for timber

country, and that it shall be forfeited if the application is not proceeded with within 30 days of approval being given. And it also provides that the amount deposited shall be returned if the application be refused. Surely nothing could be more equitable than that; and I should like to know whether the Government wish to strike out this portion of the section, which would leave them free to return the deposit to the applicant who did not proceed with his application. He would then be in the happy position of being able to take up any area not exceeding 75,000 acres, could hold that country for any length of time, and perhaps if the Government thought his excuses sufficient for not proceeding with the application, the money would be returned, though the applicant had blocked others from taking up the land during that period. I think that is objectionable, unless some further explanation be given for this alteration being made in the law. There is nothing further of special importance except the schedule, which consists of the form of lease which holders of timber lands may enter into with the Government, in place of the annual leases or licenses which are now granted. This is a lease which gives the holder 25 years' right to the land taken up; and the main objection I see to this lease is a provision which I do not think is contained in the principal Act, that the Minister may, for almost any purpose, resume any portion, or practically the whole, of the demised premises, without compensation, unless it be a portion of the estate whereon there are railways or buildings. I do not think anyone would maintain that Clause 5 was a fair provision to put into the lease.

THE PREMIER: It is only for certain purposes that the land can be resumed.

MR. WILSON: But there are so many purposes embraced in the clause that I think it will cover anything. The same argument I advanced with regard to mining leases holds good here.

THE PREMIER: But the lease is not a fee simple.

MR. WILSON: Of course not; but certainly the lessee has a vested right in the timber for which he has paid rent for years.

THE PREMIER: The reservations are very small.

MR. WILSON: Of course I do not propose to deal with this matter in detail on the second reading. When in Committee we can move to amend this schedule; and as the Premier has already amended one clause to which objection was taken, I think after a careful consideration of this form of lease, he will agree with me that it should also be amended so that the lessee of timber country may not have a large portion of his lease taken away from him without compensation, at any rate to the extent of the repayment of the rental he has already paid to the Government. These appear to me to be the main objections against this amending Bill, and I am sorry to think it has been brought down to the House apparently without having received at the hands of the department the consideration it deserved. Numbers of amendments have been tabled since the persons interested moved in the matter and consulted the Minister, and pointed out to him how objectionable were some of the clauses; and I should like again to suggest that the Government, in bringing forward these amending Bills, should give them more consideration before laying them on the table of the House.

THE PREMIER: I do not think there is very much fault to be found with this little Bill. It was necessary to have a form of lease provided, and some alterations were made necessary by the discovery of gold in the southern part of the colony. It would never do to have a timber lease granted which would prevent the gold-mining industry being prosecuted. It would never do to allow the timber lessee to be in the position of a freeholder.

MR. WILSON: Certainly not.

THE PREMIER: There is nothing whatever in this Bill which will do any injustice to anyone. It will preserve the timber to the timber lessee, even against the gold-mining lessee or the gold-mining claim-holder. We have had enough trouble already over dual titles, and we do not want to perpetuate them, or to pass laws which will cause the trouble in regard to timber leases which we have already had on the goldfields. I think the Bill is all right now, and should meet with the approval of the timber lessees. In regard to the form of the lease, of course it may be slightly

amended; but the objections mentioned by the hon. member are not very strong: they do not refer to great matters. The Bill gives power to resume for a townsite—I think no one can object to that—and for roads, tramways, railways, railway stations, bridges, canals, towing paths, harbour and river improvements, drainage and irrigation works, or quarries. Well, there is no great reservation there. Even a Crown grant goes nearly as far as that without compensation. The Government cannot grant extensive areas of country, and then permit themselves to be barred in every direction when it is desired to make a small reservation for a road.

MR. WILSON: What about a coalfield?

THE PREMIER: A coalfield would not injure the lessee so long as his timber were preserved. That is being done, and that is all we have undertaken to give the lessee.

MR. VOSPER: You do not give him the land also?

THE PREMIER: No; he has nothing to do with the land—only with the timber. I shall be glad to assist the hon. member (Mr. Wilson) in preserving the timber to the lessee. In regard to Section 113 of the principal Act, I am not aware that there is any such object as was suggested by the hon. member in striking out the words referred to: "forfeited if the application is abandoned, or is not proceeded with within 30 days from the date of approval," other than the reason that those words are superfluous, and that they were originally inserted when the Bill was first drafted, with a view of providing for appraisalment. Under Section 113:

Every application for a timber lease shall be made to the Minister in the form or to the effect of the Thirty-second Schedule, and shall be accompanied by a deposit of rentas required by the hundred and thirty-sixth section, which shall be forfeited if the application is abandoned or is not proceeded with within thirty days from the date of approval; but the amount so deposited shall be returned if the application is refused by the Minister, which he has power to do.

If the Minister refuses that offer he has to return the money: if he does not refuse, then the application is granted, and of course the deposit is not returned. The clause makes this system of paying rent the same as the system obtaining all through the Act. I can assure the hon.

member that there is no other object. I find the following explanation is given by the department:—

When Part II. of the principal Act was drafted, it was proposed that the rent of timber leases should be fixed by appraisement. An applicant was to take certain action after making his application, failing which it would be liable to forfeiture. This part of the Act was amended in Parliament, and consequent on such amendment the words in Section 113, which it is now proposed should be struck out, are superfluous and unmeaning.

I shall be very glad to assist the hon. member in Committee, and I think this Bill is very necessary. It will be, in fact, a boon to the people of the colony; and I am quite with the hon. member in desiring that it shall not injure the timber lessees.

THE MINISTER OF MINES: I think this amending Bill has been introduced more especially to meet certain contingencies arising under the Mineral Lands Act, because under that Act a timber lease is exempt from mineral leasing, and consequently the whole of the areas in the southern parts of this colony where minerals have been found are exempt from leasing under the Mineral Lands Act. I believe the lease instrument under the Mineral Lands Act, which gives the right to the timber, also gives the lessee the sole right to everything on the ground; and not only is the miner desiring to search for minerals prohibited from so doing under the Mineral Lands Act, but under this Land Act which the Bill before us seeks to amend, it is doubtful whether a gold-miner has any right to go on a timber lease, although the Goldfields Act distinctly states that a timber lease is Crown land. It is doubtful whether under this new lease instrument issued under the Land Act for timber purposes a miner cannot be prohibited from entering on a timber lease to search for gold, because the Land Act was passed after the Goldfields Act; and it was chiefly to meet that difficulty that this Bill has been brought in, though there are also some further amendments of which I know nothing. Recently I was told by the Secretary of the Crown Law Department that it was very doubtful whether a gold-miner had at present any right to go on any of the timber leases issued, because such leases gave the right to the lessee to anything on the ground;

so it was necessary to bring in an Amending Bill. I believe the Bill has been carefully thought out, and it is only with the desire of encouraging the mining industry as much as possible that it has been introduced. The member for the Canning (Mr. Wilson) said that the timber lessee would have no power to put a tram line across a gold-mining lease; but that power does exist. There was a short Act passed in 1896 giving the Minister power to allow tramways to be run across such leases.

MR. WILSON: Not railways.

THE MINISTER OF MINES: Tramways, at all events—they are just the same.

MR. WILSON: An ordinary street tramway?

THE MINISTER OF MINES: No; a tram line such as is used on the goldfields. Question put and passed.

Bill read a second time.

PERTH TRAMWAYS AMENDMENT BILL.

SECOND READING.

HON. S. BURT, in moving the second reading, said: I have been requested by the Commissioner of Railways, who is absent to-night, to submit this Bill to the House, and to say that, though the member for East Perth (Mr. James) objects to a portion of the measure, he does not intend to oppose the second reading, but to postpone discussion until the Committee stage. Under the Tramways Act of 1885 it is the duty of the Commissioner to introduce a measure confirming a provisional order, and this is a Bill to confirm the order made quite recently. The object of the Bill is to substitute routes, and make certain alterations in routes described in the schedule of the Act passed in 1897, providing for tramways in Perth. The alterations, I believe, meet with the approval of the Perth City Council, and have also passed through the office of the Commissioner of Railways. When the Bill gets into Committee it will be quite open for any member to object to any of the routes described in the schedule substituted for the old schedule. As the hon. member in charge of the petition against the Bill has intimated to me to-night that he will not raise any objection to the second reading, because what he desires to do he

can do in Committee, I content myself with stating the object of the measure.

MR. LEAKE (Albany): The object of the Bill is to alter the routes of the tramways; and I should like to know whether the hon. member in charge of the Bill intends to insist on the alteration in connection with the proposed line along St. George's Terrace and Mount Bay Road.

HON. S. BURT: I am only in charge for the Commissioner of Railways, who is prepared, I believe, to leave the Bill to the House.

MR. LEAKE: Before the Bill goes into Committee we ought to have the fullest explanation on this point, and to that end the matter ought to stand over until the Commissioner is in his place. There is a petition against the Bill.

HON. S. BURT: There is also one in favour of the Bill.

MR. LEAKE: That still further complicates the question, and may necessitate a reference to a select committee. Under the Perth Tramways Act, I forget which section, a petitioner has a right to object, and a petitioner who objects may be heard before a select committee. That would seem to clearly infer that a Bill of this nature should be referred to a committee, or otherwise a petitioner would not have an opportunity of being heard. One of the principal objects of the Tramways Act, inasmuch as it affects individual interests more or less, is to allow every person who thinks he is affected to be heard, and the Act goes so far as to provide that an omnibus proprietor or a cab proprietor is entitled to object before a select committee. I am placing this view before the House because it seems to me to be important as a matter of practice and procedure, and we ought to be careful how we establish precedent. The Bill ought to go before a select committee, before whom those who object may appear.

THE PREMIER: I hope there are not 2,000 or 3,000 objectors to be heard.

MR. LEAKE: It is when there are a number that we must have regard to their representations.

THE PREMIER: There may be 2,000 or 3,000.

MR. LEAKE: That only shows the difficulty we are in, because we cannot ignore the two petitions, but must con-

sider both sides. Perhaps I ought to ask your ruling, Mr. Speaker, if it appear to you to be a matter of procedure of some importance.

THE SPEAKER: I happened to be looking at the Act last night, and I saw that it does provide for a reference to a select committee.

MR. LEAKE: I desire to say I am not making these remarks in opposition to the second reading, or to the measure.

THE SPEAKER: The Act does not say that the Bill shall go before a select committee, as in the case of a private Bill, but that it may be referred to a select committee.

MR. LEAKE: The Act contemplates a reference to a select committee?

MR. SPEAKER: Yes.

MR. LEAKE: And as the Act says persons who petition against the Bill may be heard before a select committee, the inference is that these persons ought to have an opportunity of being so heard.

THE SPEAKER: I think so.

HON. S. BURT (in reply): I do not think there is any objection to a select committee, because Section 13 of the Act contemplates such a course when there is an objection against a Bill. The Act provides that if, while the Bill is pending, a petition is presented against the provisional order, the Bill, so far as it relates to the order petitioned against, may be referred to a select committee, and the petitioner allowed to appear and oppose, either in person or by counsel. I hope that if the Bill be referred to a select committee, we will bear in mind there are 1,300 petitioners.

MR. JAMES (East Perth): They cannot all have *locus standi*.

HON. S. BURT: The Act provides that petitioners may be allowed to appear and oppose, and that an omnibus proprietor shall be deemed to have a *locus standi*. I do not know whether such witnesses are in addition to the petitioners.

MR. JAMES: Can we have a select committee on the part objected to, or must the whole Bill go to the select committee?

THE SPEAKER: I think the whole Bill must be referred to the select committee.

Question put and passed.

Bill read a second time.

SELECT COMMITTEE.

MR. LEAKE moved that the Bill be referred to a select committee.

Question put and passed.

A ballot having been taken, the following members were elected:—Hon. S. Burt, Mr. Monger, Mr. Piesse, Mr. Wilson, and the mover (Mr. Leake): to report on Friday, 26th November.

MOTION—TO POSTPONE ORDERS.

HON. S. BURT moved that the next four orders of the day (mining Bills) be postponed to the next sitting.

MR. ILLINGWORTH objected to postponement.

MR. GREGORY: These Bills were important, and should be got through and sent to the other Chamber. He opposed the postponement.

HON. S. BURT: There was no desire on his part to take a vote on the motion. He thought it was agreed not to take any contentious matter this evening, and that we could best deal with a couple of orders to which there was no objection. If members desired, he would withdraw the motion.

Motion, by leave, withdrawn.

SLUICING AND DREDGING FOR GOLD BILL.

IN COMMITTEE.

Debate resumed from 31st October, at Clause 5, Sub-clause 2, on amendment by Mr. Leake to strike out the word "demised" in line 2.

THE MINISTER OF MINES: When we were last discussing this Bill in Committee, the member for Albany (Mr. Leake) moved that the word "demised" be struck out, because he thought it would be unwise to demise the lands, as lode matter might be discovered. That was improbable, but it was well to provide against all contingencies. Land leased under this Bill would be private land under the Mining on Private Property Act. Private land under that Act included amongst other things land which was alienated from the Crown and was the subject of any lease, license, or concession with or without the right of acquiring the fee simple thereof other than for pastoral or timber purposes. The paragraph went on: "but no land held or occupied under the provisions of

the Goldfields Act, 1895, or any amendment thereof, shall be deemed private land within the meaning of this Act." This land would not be held under the Goldfields Act, consequently it would be private land under the Mining on Private Property Act. He thought that if we were granting leases of these lakes in the interior for dredging purposes, and there were people to take them up, it would be well to give them as good a title as we could, but, at the same time, to preserve the lode matter, if possible, for lode mining. The lessees would have no right to engage in lode mining. If they attempted to work the land, except by sluicing or dredging, the lease would be liable to forfeiture. He did not think it likely that the lessees would be able to mine quartz leases by either sluicing or dredging, consequently the lode matter would be completely locked up. Anything that the lessees could dredge would be their own.

MR. VOSPER: What about pug?

THE MINISTER OF MINES: It was a question what pug consisted of?

MR. VOSPER: Pug was mineral india-rubber.

THE MINISTER OF MINES: Lessees might be able to dredge it. Probably they could, if it were not too stiff. He proposed to add a clause to the Bill which would read as follows:

Land the subject of gold-mining leases under this Act shall, for the purpose of mining for gold in any lode, reef, or vein, be deemed private land within the meaning of the Mining on Private Property Act, 1898; and if such land is enclosed the owner of a miner's right who desires to obtain possession of a claim, or a person who desires to obtain a lease for mining in any lode, reef, or vein therein, shall not be precluded by anything contained in the Mining on Private Property Act from entering on such land merely by reason of a spring, lake, or dam being thereon.

The reason he had added these last words to the proposed clause was that under Section 8 of the Mining on Private Property Act, if a person had a lake fenced in on private land, no one could go on to that land for the purpose of marking out a lease, nor on land within a hundred yards of the same, consequently the lease could not be granted. If that were not inserted in this clause, it might be argued that if a lessee under the Dredging Bill fenced his area in, no one would be able to approach the lease; therefore it was

necessary to add the words he had indicated, to give power to go on the lease.

MR. VOSPER: Was there not a clause in the South Australian Dredging Act which dealt with this?

THE MINISTER OF MINES: No. By the Mining on Private Property Act, if anyone desired to obtain a lease of land for gold-mining purposes, he would have to pay reasonable compensation to the lessee for any damage done to the surface, or any consequential damage that might accrue. The proposed new clause he had indicated would meet every objection. It was not probable that lodes would be discovered in the lakes.

MR. ILLINGWORTH: Nothing was more probable.

THE MINISTER OF MINES: That he was glad to hear; and when a lode was discovered, he hoped the person would enjoy mining there. It would be very difficult to mine for a lode in the middle of a lake. Lakes were very full of water sometimes, it would require very powerful pumps to get rid of the water; and the lessee would probably have to erect an over-head tramway line to convey the stuff to the shore, so to speak, to treat it. There were many lakes in the interior very full of water indeed; he was certain Lake Austin contained a tremendous quantity of water, and that lake had been referred to by hon. members as a probable place for persons entering upon the work of dredging for gold. Persons would not be prevented entering on these lakes to mine for a lode. The new clause which he had suggested would meet every point and every difficulty that could arise. He was anxious that this Bill should become law; and he thought when the Government gave a title to persons for dredging, that title should be made as good as possible, or else people would not go in for the work.

THE CHAIRMAN: Did the hon. member for Albany (Mr. Leake) wish to withdraw his amendment?

MR. LEAKE: No good argument had been offered against his amendment. He did not know what hon. members thought about the granting of leases. He (Mr. Leake) was supported in the view he took by the member for North Murchison (Mr. Moorhead), and he thought also by the member for Ashburton (Hon. S. Burt). He felt strongly that it would be far better

to grant licenses instead of leases, because leases would lock up large areas.

THE MINISTER OF MINES: Not lock up.

MR. LEAKE: It was locking up. It would be a trespass for anyone to go on one of these areas and shoot a duck or water a camel after a shower of rain, because these lakes were very full of water after a heavy rain, and some of them held fresh water in them for months. No one could go on these lakes in a boat, nor could they do anything if the areas were leased in the way proposed, unless the leases were hedged round with many reservations. He did not want to interfere with public rights more than necessary. If big companies got possession of large areas of land by lease, these companies would lock them up with great jealousy, and would not submit to any invasion of their rights, real or imaginary. We would make a mistake in granting leases; it would be sufficient if licenses were issued. He did not know what the Attorney General thought about this question, but the member for North Murchison (Mr. Moorhead) supported him (Mr. Leake) in the view he had taken, and the opinion of that member was worth regarding.

THE MINISTER OF MINES: People would not take up these areas without security.

MR. LEAKE: They would have ample security under a license. The idea of grasping everything by promoters seemed to have a fascination for some people, and he hoped the Committee would take warning and would not be reckless in the way in which they locked up these areas. It was a matter of small moment to-day, but it might not be so in time to come. We must not act in the same way that we acted with regard to the dual title. It was said when the Goldfields Act was under consideration that certain difficulties would never arise: but those difficulties had arisen. The conditions of the colony were not always going to be exactly what they were to-day. If gold was found in large quantities in one of these lakes what would be the position? There would be a big rush of people, and a big trade done all round. It would be a great advantage to some people, but what would it mean if those large areas were locked up. The surveyors in marking out the areas would

not be too careful not to take in the fringe of the lake-beds, and perhaps a surveyor might give a piece of land separating one clay-pan from another to a leaseholder. If a lease was given it would mean the locking up of these areas.

THE PREMIER: Would licenses prevent that?

MR. LEAKE: Yes; because in giving licenses the Government would only be giving the right to go on for a specific purpose; but a lease shut out everyone.

THE PREMIER: But would it keep other people off?

MR. LEAKE: Only for that purpose. There was more in the suggestion that he had made than hon. members seemed to think.

MR. MONGER: It was difficult to understand the policy which the member for Albany (Mr. Leake) was pursuing in connection with this Bill. It was admitted that the colony possessed something like 20 millions of acres of lake country. Now we were asked to grant concessions in the shape of allowing people to go and dredge in some of these lakes; and the member for Albany, for some reason best known to himself, tried to throw all sorts of obstacles in the way. For years the country had owned this lake territory, and the lakes had remained practically unworkable for years. No miner would attempt to take up a lease, or a license, as suggested by the hon. member, to work any of these particular lakes; but now, when people represented to Parliament that, in consideration of getting a fair concession, they were prepared to embark capital in what had been looked upon as absolutely valueless, some unnecessary obstacles were thrown in the way by certain members. If the whole of the 20 millions of acres of lake country which was now considered to be so very valuable, were taken up under the conditions imposed by the Bill, that would produce a larger revenue to the country than the whole of the revenue derived from the gold-mining industry of the colony at the present moment. Let a few people make a success of this dredging industry, and then Parliament could pass further legislation at a later date. In New Zealand, which was the home of sluicing and dredging companies, there was something like

10 to 11 millions of capital employed in this particular industry; and if by dealing fairly, and on a somewhat favourable basis, with those who were prepared to embark in the enterprise in this colony, we could induce capital to anything like that amount, it would be a good thing for the country.

MR. MORAN: Members were continually bumping against the fact that this was not after all a dredging country. In New Zealand dredging meant the dredging of rivers with rapid currents and deep beds. He (Mr. Moran) was not at all afraid that the bottom of a dredge would be knocked out on a lake in Western Australia by bumping against a reef. He looked with a certain amount of amusement on the proposal that people were going in for dredging lakes in this country. He believed some small veins would be found by sluicing operations, and the stuff would have to be taken up by a centrifugal pump. But as to seeing dredges afloat on these lakes, and the opening up of a canal in one of our lakes, he could not believe it. In this country the dredging would be done on dry land. Reefs were sometimes found in salt beds, and as soon as the supplementary deposit had been treated by the dredging lessee, the land should be thrown open to ordinary mining. Until then, nothing in the nature of a dual title should be permitted.

MR. GREGORY: Who should have the first right to a reef when discovered?

MR. MORAN: Whoever discovered it. Even if the discoverer were the dredging lessee, he should have the right to a gold-mining lease, provided he complied with the Act and regulations.

MR. KINGSMILL: The explanation of the Minister and the new clause proposed rendered further discussion unnecessary. The objections of the member for Albany (Mr. Leake) were chimerical, for a dual title under this Bill seemed unavoidable.

THE MINISTER OF MINES: No; impossible! None could go on land leased under the Bill except under the Mining or Private Property Act.

MR. KINGSMILL: That conferred a dual title.

THE MINISTER OF MINES: No.

MR. MORAN: Not a dual title to the gold.

MR. LEAKE: The objection he had made was that the grant should be a license and not a lease.

MR. MORAN: Public rights could be saved by the terms of the lease.

MR. LEAKE: But more easily under a license.

MR. MORAN: Investors would not like a license.

MR. KINGSMILL: The objection of the hon. member (Mr. Leake) was that a lease made all others than the lessee trespassers when entering upon the land. That objection held against every gold-mining lease, and there was no public outcry. The difficulty would be fully met by the new clause.

MR. VOSPER: The new clause, by preventing a dual title, and by defining the relative positions of the parties using the land, would meet the objections he had previously raised. Nevertheless, the objections of the member for Albany were not altogether puerile. It would be serious if a lessee could prevent the supply of water to a camp or township or could charge for water. Such a difficulty might be met by another new clause.

THE MINISTER OF MINES: Or by regulation.

MR. LEAKE: By a reservation in the lease.

MR. MORAN: That would be better.

MR. VOSPER: Of the three methods the most satisfactory would be a clause in the Bill stipulating that such reservation should be made in the lease, so that the public could go on the land for any purpose other than sluicing and dredging for gold.

THE MINISTER OF MINES: Clause 5 provided that every lease should contain, amongst other covenants, "any such reservation and such other covenants as may be prescribed." When drafting the Bill it had been foreseen that it would not do to lock up these lakes. The lease would be granted purely for sluicing and dredging, and the lessee would have no right to sell the water.

MR. LEAKE: But he might prevent others from drawing water.

THE MINISTER OF MINES: That would be provided against in the lease instrument by means of covenants conserving the public rights. This Bill must not be framed, as some hon. members had suggested, on the supposition that it would

not be availed of extensively. Even if only one lease were to issue, the Bill must be properly drafted. A clause at the end of the Bill enabled the Minister to suspend any lessee's covenants and conditions. This would meet the objections raised. The Minister being responsible to Parliament, Parliament could overrule any conditions likely to conflict with public interests. At the same time the lessee must be given as good a title as possible.

MR. VOSPER: The difficulty might be met by adopting the plan followed in the Land Act Amendment Bill previously before the House, in which a new form of timber lease was established and attached as a schedule to the Bill. A form of lease might be drawn up with expressed reservations, which must be insisted on in every case, giving power to the Minister to make other reservations he might think fit. The Committee ought to have the actual instrument of lease before them, so as to make sure of the *boni fides* of all parties concerned. At the present time the Committee were to a great extent in the dark, and that was the cause of the difficulty; and he moved that progress be reported, to give the Minister an opportunity of considering this suggestion.

Motion put and negatived.

MR. RASON: If sluicing had to be encouraged it was necessary to grant a lease, because the Committee were dealing with what were waste areas not approachable by the ordinary miner.

MR. VOSPER: All lands were waste in this country until they were made valuable.

MR. RASON: Many waste lands had been developed by similar industries, and the results of sluicing and dredging were so highly problematical that unless some inducement were offered, the enterprise would never be undertaken. It was necessary to go to considerable expense before even a trace of gold could be ascertained, and when the trace had been found, it was necessary to erect expensive machinery to deal with bulk quantities, all the time unaware of what the result would be, and in case of failure the machinery would be valueless, because it would never be removed. The illustration of the member for Albany (Mr. Leake) as to duck-shooting was an

extreme one, used for purposes of argument, and in reply it might be said that the man who went on an area under pretext of wanting to shoot could persist in sitting in front of the dredger and blocking all proceedings, not only for 24 hours, but for all time.

MR. LEAKE: No; because that man would be interfering with the business of the lessee.

MR. RASON: At any rate, it would be a matter of legal difficulty. Without security of tenure people could not be induced to invest their money in this industry, and if a lease were not granted, the Committee would be making a great mistake.

MR. MORAN: The danger was that of giving away large concessions of land which might be leased, but the difficulty could be overcome by reserving reefs, lodes, and so on, and advertising every concession for some time, so that if anybody wanted to reef, he might have first claim. In these matters an extreme view should not be taken, but probabilities regarded, because it was impossible to frame any law which would fit every possible case. The great difficulty was the water, and nothing should be done to prevent a concessionaire taking out a water right if he liked. In Kalgoorlie the whole water supply for crushing came from the lake, and care must be taken not to give a monopoly, because it would be fatal to so lock up these areas, as not to allow a man to get water or lay a pipe down within reasonable limits. That was not the intention, and no doubt the Government would provide against such a contingency.

THE ATTORNEY GENERAL: The point was whether there had to be a lease or a license. When a lease was granted the sluicer was given possession of all the land.

MR. LEAKE: It was as good as a freehold.

THE MINISTER OF MINES: Subject to any covenant the instrument might contain.

MR. VOSPER: That was why the Committee ought to see the instrument.

THE ATTORNEY GENERAL: By the instrument reservations could be made and the rights of the lessee diminished to that extent, but everything beyond that was the property of the lessee.

Then came the other point about the license. A license only gave the right to do a specific thing for which the person was licensed. It was a question of policy after all. Should we make the instrument a lease or a license? Under the form of lease we could protect the interests of third parties just as effectually as if we made it a license; but of course it all depended upon the correctness with which the reservations were made. This was a species of operation necessarily involving expenditure of large capital, and was it likely that capital would be raised from people when they were told that they would only have a license? True, it might be explained that the license would be for twenty-one years, but a man would say "I know nothing about licenses; I have been used to leases or freeholds, and I shall not touch anything in the nature of a license." If the committee limited the instrument to a license, it would defeat the object aimed at, and prevent the establishment of the industry.

MR. LEAKE: The Attorney General put the case very fairly, and from another point of view had argued in the same direction as he (Mr. Leake). It was only a question of what it was best to do. His (Mr. Leake's) suggestion was that it might be more easily done under a license. He deferred to the hon. gentleman's opinion that it could be done under a lease, but he did not think it could be accomplished quite so easily. Some members thought the suggestion by him (Mr. Leake) was raised for some ulterior object, and the member for York (Mr. Monger) said he could not understand what reasons had prompted him in bringing the matter forward. He thought we should elaborate Clause 5 and say specifically what special reservation should be made in the lease. The lease should contain a reservation that persons might take water from the lakes for condensing purposes, but not interfere with the working of the company, and so forth, and many other things that would probably occur to the draftsman. He hoped the matter would receive the attention of the Minister, and on recommitment Clause 5 could be amended.

THE MINISTER OF MINES: These questions ought to have been raised on the second reading.

MR. LEAKE: These matters should have been thought out by the Minister and his department.

THE MINISTER OF MINES: So they had been.

MR. LEAKE: It was not for the House to put a Bill into shape. Members were trying to assist the Minister, and the Minister said that the points ought to have been referred to on the second reading, simply because it was a matter of convenience to him, but what members had to consider was the convenience of the public. The suggestion that had been made was a good one, and had been supported by the Minister's colleague, the Attorney General. The best thing the Minister of Mines could do was to sit down in his office, consider the subject, and bring forward a practical suggestion which could be embodied in the Bill.

THE MINISTER OF MINES: The hon. member for Albany (Mr. Leake) having given expression to his wrath, he (the Minister) might say something. He was still of opinion that members ought to have raised all these objections on the second reading.

MR. VOSPER: A question was raised by him on the second reading.

A MEMBER: A question was also raised by him.

THE MINISTER OF MINES: The member for Albany did not, he thought, study these questions so very closely, after all. Although the hon. member was very ready to tell him his duties, he could inform the hon. member that the matter had been carefully considered.

MR. LEAKE: Consideration was all that members got.

THE MINISTER OF MINES: What was the House for? Hon. members raised objections, but did not suggest anything practical.

MR. VOSPER: Something had been suggested to-night.

THE MINISTER OF MINES: Members did not make amendments which would help the passage of the Bill through the House. If the member for Albany would put a little of his ability into these things, he might help the passage of a Bill of this sort.

MR. LEAKE: Do the work for the Minister.

THE MINISTER OF MINES: The Bill was in the interests of the public. When a measure of this sort came before the House, it was the duty of members to discuss it, and try to make it a good, workable Bill. Members ought to be prepared to come forward with their amendments.

MR. GREGORY: That was what they were doing.

THE MINISTER OF MINES: There had been no amendments proposed in this Bill, but only objections raised.

MR. VOSPER: An amendment was proposed now.

THE MINISTER OF MINES: Members would try to amend the Bill out of the House altogether. If the measure did not get through the House, the blame would not be on his shoulders, but on the shoulders of those who opposed the Bill, and did not try to suggest anything which would remedy what they considered the evils.

MR. VOSPER: The Minister was not justified in charging members of the Opposition with opposing the Bill. On the contrary, many gave their support to the principle. On the second reading members were most careful to point out certain dangers that would arise. He (Mr. Vosper) suggested a form of clause which was practically the same as that which the Minister had now brought down. The member for Albany raised the question another way by proposing that the word "demised" be struck out, which raised the point whether leases or licenses should be granted. That was the point they discussed. Members of the Opposition were not raising objections, but simply discussing an amendment of a perfectly intelligible and intelligent character brought forward by the member for Albany. He (Mr. Vosper), in the course of the last few minutes, suggested that if we were going to have leasing persevered in, a draft of the lease should be placed on the table of the House and considered, the same as was done in the case of other Bills. It was only asking that the Mines Department should follow the example of the Lands Department. If it was necessary that the form of timber lease should be placed on the table of the House, it was only reasonable to ask that the form of mining lease should also be produced.

THE MINISTER OF MINES: The case was different.

MR. VOSPER: If members had a right of supervision in the one case, why should they not exercise it in the other? When the Lands Department brought in a Bill of this important character, they took the House fully into their confidence, and gave the whole of the terms of the lease, but the Minister of Mines had done nothing of the sort. In every Bill the Mines Department brought forward, there was an attempt to put the whole responsibility into the hands of the Minister.

THE MINISTER OF MINES: That was done all over the world.

MR. VOSPER: There was not a Mines Department all over the world such as we had here, otherwise it would not be done. If the Mines Department could not issue reliable statistics, it was not to be trusted with the drafting of a matter of this kind.

THE MINISTER OF MINES: The statistics were correct.

MR. VOSPER: They were contradictory.

THE MINISTER OF MINES: They were not contradictory.

MR. VOSPER: His statement was absolutely correct, he believed. He brought it forward by way of illustration.

THE MINISTER OF MINES: The hon. member made a direct statement, and there was not time to prove it.

MR. VOSPER: There was no time to prove it, and, as he said, he simply introduced it by way of illustration. The Mines Department did not deserve more confidence than the other departments. The other departments brought down something which could be understood from beginning to end, whereas the Mines Department brought down a vague proposal which the House had to reject or to discuss at length. Last session we saw a Mines Bill brought down, which was mere patchwork, and was withdrawn. Then an amending Bill was brought down which was unworkable.

THE MINISTER OF MINES: It was not unworkable.

MR. VOSPER: The proof of the pudding was in the eating. We could see what was going on in Kalgoorlie to-day.

THE MINISTER OF MINES: The Act was workable.

MR. VOSPER: The hon. gentleman said so; therefore he supposed we must take it for granted. Members had indicated to the Minister how the difficulties in relation to this Bill might be met. They had given him suggestions galore, which he had declined to accept, and had ignored them altogether. He denied their existence, and then "slated" hon. members for obstructing a Bill which we desired to see passed. He would not have spoken in the strain he had, only that he thought it was somewhat impertinent on the part of the Minister to take up the position he had assumed.

THE MINISTER OF MINES: The hon. member did not expect him to sit here and listen to abuse of the department and its actions, and say nothing.

MR. VOSPER: The Minister was quite within his right in defending himself and the department, and one was glad to think the Minister could do it so well; but hon. members should not be accused of obstruction when they brought in suggestions that were worthy of consideration. Even the amendment the Minister brought forward had been pirated from suggestions made on the Opposition side. The debate would not have taken the tone it had if the Minister had accepted suggestions offered to him.

THE MINISTER OF MINES: The suggestions did not improve matters.

MR. VOSPER: Possibly not. He was being corrupted, probably by Ministerial example. He came to the House this evening with the desire to facilitate the passage of the Bill. Hon. members only wished to see some guarantee that the public would be safe-guarded, but they had been treated to a condemnation of their duty as legislators.

MR. GREGORY: It was hardly part of the duty of the Minister to tell hon. members they did not assist him in any way. Every assistance that could possibly be given in the passage of mining Bills had always been rendered by members on the Opposition side. The Minister must admit that the mining members did their best to try and help him in getting his Bills through the House as perfect as possible. The point that had arisen was whether licenses or leases were best to grant, and if progress were reported now

it would enable the Minister to bring in a few fresh clauses showing the reservations which would be granted in a lease. Hon. members could not expect the lease to be recited in the Bill, but the reservations might be given. He moved that progress be reported.

Motion put and passed.

Progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at 21 minutes past 10 until the next Monday evening.

Legislative Assembly.

Monday, 20th November, 1899.

Paper presented—Question: Lennouville Public Battery—Question: Police Department, Inquiry—Question: Payment of Members, Referendum; point of order—Annual Estimates, Railway Department, Commissioner's annual Statement; debate, progress—Land Act Amendment Bill, in Committee, Clauses 1 to new clause, progress—Cemeteries Bill, second reading, Committee, reported—Adjournment.

THE SPEAKER took the Chair at 7-30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the PREMIER: Return under Section 60 of the Insurance Companies Act.
Ordered to lie on the table.

QUESTION—LENNONVILLE PUBLIC BATTERY.

MR. VOSPER asked the Minister of Mines:—1, Whether it was true that the manager of the Lennouville Public Battery had refused certain persons employment, on the ground that they were members of a trade union; 2, If so, whether the manager had authority to do

so; 3, If not whether the Minister would prevent such refusals recurring.

THE MINISTER OF MINES replied: 1, The manager reports that it is not true; 2, Not being true, there is no reply to give to this question; 3, No refusal having been made, there are none to recur, but managers have instructions to obtain the most suitable employees, irrespective of any particular class.

QUESTION—POLICE DEPARTMENT, INQUIRY.

MR. VOSPER asked the Premier: When is it intended to appoint a Royal Commission to inquire into the Police Department, as recommended by a resolution of this House?

THE PREMIER replied:—It is intended to do so shortly.

QUESTION—PAYMENT OF MEMBERS, REFERENDUM.

MR. VOSPER asked the Premier: 1, Whether it would be necessary, for the purpose of enabling a referendum to be taken on the question of payment of members, to introduce special legislation; 2, If so, whether the Government intended to introduce such legislation this session; 3, On what date it might be expected that the promised referendum would be taken.

THE PREMIER replied:—1, The Government do not consider it necessary to introduce any legislation, nor was it ever intended to do so; 2 and 3 answered by No. 1.

POINT OF ORDER.

MR. VOSPER: Should I be in order in moving the adjournment of the House, before the Orders of the Day are taken?

THE SPEAKER: I do not think the hon. member would be in order in doing it.

MR. VOSPER: I thought a member had the right to move the adjournment of the House, to call attention to a matter of urgency.

THE SPEAKER: Yes; but whether a matter is one of urgency is for the Speaker to decide; and I do not think that the fact of the hon. member not having received a satisfactory answer to his question is a matter of sufficient importance for him to move the adjournment of the House.