

tors to the Government for the supply of timber.

**THE PREMIER:** A man who went to the Ashburton to build a jetty would have to take his stores with him.

**MR. GEORGE:** There did not seem to be any necessity for the proviso, which only complicated the clause.

**THE PREMIER:** The same provision was in the New Zealand Act, and a similar condition was made in the Government contracts now.

**MR. GEORGE:** If a workman were engaged felling timber part of the day under a Government contract, and another part of the day for an ordinary individual, how was the dividing line to be drawn?

**THE PREMIER:** The clause was in the interest of the workman, but if the hon. member proposed that it should be omitted, the amendment would not be opposed.

**MR. GEORGE** moved that all the words after the word "supplied" in line 3 of the proviso be struck out.

Put and passed.

**MR. LEAKE** said he could not allow this Bill to pass without again entering his protest. The Bill, as it stood, would encourage the truck system.

**THE PREMIER:** Would the hon. member explain why?

**MR. LEAKE:** In the earlier clauses it was declared that the truck system should not prevail, and yet, as the Bill went on, the door was opened to all the abuses of the system.

**THE PREMIER:** No.

**MR. LEAKE:** By striking out the last proviso matters had been made worse than ever. He could not divide the House again, seeing that only the member for Central Murchison (**Mr. Illingworth**) was of the same opinion as himself, and that in a Committee like this it was useless to attempt to submit any amendment.

**MR. A. FORREST:** Throw the Bill out altogether.

**MR. LEAKE:** The Government could have their Bill, make what they could of it, and take credit for it; but he protested against the measure and intended to vote against this clause.

Clause as amended put and passed.

Clause 20—agreed to.

Title—agreed to.

Bill reported with amendments, and report adopted.

#### ADJOURNMENT.

The House adjourned at 10.50 p.m. until the next day.

### Legislative Assembly,

Thursday, 10th August, 1899.

Question: Survey at King George's Sound—Question: Vice-Regal Railway Car—Question: Fremantle Water Supply—Motions: Leave of Absence—Orders of the Day, and Transposition—Truck Bill: Amendments on Report; reported—Public Education Bill, second reading—Customs Consolidation Amendment Bill, second reading—Motion: Ivanhoe Venture G.M. Co., Compensation—Permanent Reserves Bill, second reading—Adjournment.

**THE DEPUTY SPEAKER** took the Chair at 4.30 o'clock, p.m.

#### PRAYERS.

#### QUESTION: SURVEY AT KING GEORGE'S SOUND.

**MR. ILLINGWORTH** (for **Mr. Leake**) asked Whether, in consequence of the stranding of the ship "Gio Batto Repetta" in King George's Sound, it is proposed to have a proper survey made of the dangers in the vicinity of the Michaelmas reef.

**THE PREMIER** replied: Captain Russell, R.N., made a survey of the locality, and sounded in the vicinity for five days. He mapped the foul ground and placed a buoy upon it. Notice was given in the *Government Gazette* of June 9, and the Admiralty as well as the Governments of the other Australian colonies was informed. When next an Admiralty surveying ship visits Albany the commander will be asked to examine the locality also, although Captain Russell's examination was very exhaustive, and was performed with great care.

# QUESTION: VICE-REGAL RAILWAY CAR.

MR. WALLACE asked the Commissioner of Railways: 1, Whether it is true that the Vice-regal car was sent to Kalgoorlie for the express purpose of conveying a certain person over the public railway line to Perth; 2, If so, what is the name of the said person; 3, What was the cost to the department for the haulage of the said car from Perth to Kalgoorlie, and *vice versa*; 4, What amount of revenue the department received for this service?

THE COMMISSIONER OF RAILWAYS replied: 1 & 2, The vice-regal car was sent to Kalgoorlie to convey to Perth Mr. Rose and party, who were guests at Government House during their visit to Perth; 3, The cost to the department was the haulage of the car on the ordinary train; 4, the usual fares were paid.

# QUESTION: FREMANTLE WATER SUPPLY.

MR. HIGHAM asked the Director of Public Works: When it is proposed to construct the works providing the high zone in connection with the Fremantle water supply?

THE DIRECTOR OF PUBLIC WORKS replied: When the Loan Estimates have been passed by Parliament.

# MOTIONS—LEAVE OF ABSENCE.

On the motion of the PREMIER, leave of absence was granted for one month to the member for the Ashburton (Hon. S. Burt), on the ground of urgent private business.

On the motion of MR. ILLINGWORTH, leave of absence for one fortnight was granted to the member for Plantagenet (Mr. Hassell), on the ground of urgent private business.

# ORDERS OF THE DAY, AND TRANSPOSITION.

THE PREMIER said he desired to move that Order of the Day No. 7, which was to consider in Committee the Governor's Message relating to compensation to the Ivanhoe Venture Goldmining Company, take precedence of the first six Orders of the Day. He explained that, owing to his oversight on the previous evening, hon. members had been led to

expect this Order of the Day would be first on the paper, so that the motion he now desired to submit would not take anyone by surprise.

THE DEPUTY SPEAKER: It had been ruled by the Speaker (Sir James Lee Steere), on a previous occasion, that Orders of the Day postponed must be postponed until the following day; so that if the motion of the Premier were moved now, and carried, all the other Orders of the Day in front of Order No. 7 could not be dealt with until the next sitting.

THE PREMIER said he was not prepared to submit the motion, under the circumstances.

# TRUCK BILL.

## AMENDMENTS ON REPORT.

Order of the Day, for adoption of report from Committee, read.

New Clause (a substitute):

THE PREMIER moved that Clause 7 be struck out, and the following inserted in lieu thereof:

No employer, or his partner, or agent shall have or maintain any action in any court against any workman in respect of any goods sold, delivered, or supplied to any such workman while in such employment, as or on account of his wages; and no person shall have or maintain any action against such workman in respect of any goods sold, delivered, or supplied to the workman under any order or direction of such employer, his partner or agent.

This would overcome the difficulty that had been raised, that a man might come to Perth away from a timber station altogether and obtain goods, and because the person from whom the goods were obtained had an interest in the station, he could not recover unless an order was obtained from the employer to do so. The effect of the amendment was that on a station where the work was done, men would have to be paid in cash, and they would have to pay cash for goods, unless in any case under Clause 19, by which it was provided that a man when he first went to work could obtain an advance, or in the case of a man requiring medicine, and so on. The proposal, he thought, would meet the views of hon. members.

Amendment put and passed.

Bill reported with amendments, and report adopted.

## DIVIDEND DUTY BILL

## RECOMMITTAL.

On the motion of the PREMIER, Bill recommitted for amendment, and the clauses again read *seriatim*.

## Clause 1—Short title:

THE PREMIER moved that the word "dividend" be struck out and "companies" inserted in lieu thereof. The clause would then read: "This Act may be cited as the Companies Duty Act, 1899."

MR. ILLINGWORTH: This amendment looked very simple, but it created an absolute revolution.

THE PREMIER: It made the Bill double-barrelled: dividends and profits could then be dealt with.

MR. ILLINGWORTH: This amendment made the measure an income tax bill.

THE PREMIER: No, it did not. He denied that.

MR. ILLINGWORTH: It was a question of opinion.

THE PREMIER: It could not be a Bill to tax incomes, when it was to tax dividends.

MR. ILLINGWORTH: The right hon. gentleman proposed to strike out "dividends" and insert "companies."

THE PREMIER: That was only for the title.

MR. ILLINGWORTH: The hon. member wished to make the title in accordance with amendments that were to follow. The Bill would cease to be a Dividend Bill as originally proposed, and would become a companies Bill based on income tax lines.

THE PREMIER: The title would be altered too.

MR. ILLINGWORTH: The title, he thought, should be altered after the other amendments had been considered. He would call the attention of the Chairman to that point.

MR. LEAKE asked the Chairman whether the amendment was in order.

MR. ILLINGWORTH: The short title should be put last.

THE CHAIRMAN: When a Bill was recommitted, it was competent for the Committee to alter the Bill in any form they wished.

MR. LEAKE: The House had affirmed the principle of a Dividend Duty Bill;

now it was sought, after the Bill had been discussed in Committee, to turn it into a companies duty Bill.

THE PREMIER: That was not so, he thought.

MR. LEAKE: It was not a question for debate. He was asking for a ruling from the Chair.

THE CHAIRMAN said he could not see that the amendment was out of order.

MR. ILLINGWORTH: Had there been any leave given to introduce a Bill intitled a "Companies Duty Bill?" The Dividend Duty Bill had been read a first and second time. He asked the ruling of the Chairman on this point. Leave had been given to introduce a Dividend Duty Bill.

THE PREMIER: A Bill to impose a duty on dividends.

MR. ILLINGWORTH: That Bill had been read a first and second time, passed through Committee, and now it was proposed to alter the measure to a Companies Duty Bill.

THE PREMIER: Mere quibbles.

MR. ILLINGWORTH: It was a question of constitutional order.

THE PREMIER: The hon. member himself had asked to have "profits" inserted in the Bill.

MR. ILLINGWORTH: On the second reading he had pointed out that the Bill would have to be re-cast. The Bill was a very different one from the measure which was introduced.

THE PREMIER: Let the matter be left as at present, if the hon. member did not wish companies to be taxed.

MR. ILLINGWORTH: The question was not what he liked, but one of constitutional procedure.

THE CHAIRMAN: The amendment was not out of order, in his opinion, because the House in Committee had already dealt with the profits of companies, and this alteration only brought the title into consonance with the Bill as agreed to in Committee.

Amendment put and passed, and the clause as amended agreed to.

## Clause 2.—Interpretation:

MR. MONGER moved that after the word "association," line 4, the words "or every registered firm registered under the Registration of Firms Act" be inserted. There had been considerable discussion in the Chamber and through the local

Press, in connection with the Bill, and in many quarters it was considered rather hard that registered firms should be exempted from this taxation. There was no necessity to refer to the Registration of Firms Act, which was originally introduced by the present Colonial Secretary when he occupied a seat in the Assembly, and it was thrown out, though it received the support of almost every member in the Chamber. It was subsequently again brought forward by that gentleman when he took his place in another House, and it was then carried. To-day the position was that any person wishing to register himself or his firm as a company had only to pay five shillings. Private individuals who wished to register as firms must have some object in view.

MR. A. FORREST: Firms did not wish to register, but they were obliged to do so.

MR. MONGER: The member for West Kimberley was one of the strongest supporters of the Registration of Firms Act. We heard from all quarters, during the debate on this Bill, that it would be unfair to tax the Bon Marché dividends while Shenton and Company, and firms of that sort, were to be exempt. It was almost the unanimous opinion of members that those big firms should contribute equally with the incorporated firms.

THE PREMIER: The arguments used by the hon. member had been brought forward several times before in the debate, and there was no place in the Bill for the proposal of the hon. member. The Registration of Firms Act said firms must register, and it related to every little firm doing business in the colony, whether a trading or mechanical firm, or whatever it was, so long as the firm comprised more than one person. The Act was passed, not in the interest of firms, for firms did not want people to know their business, but in the interests of the general public. An incorporated company was just the opposite to that, because it was incorporated for the advantage of its members, and not for the advantage of the public. The Companies Act limited the liabilities of members of an incorporated company. The two things were altogether separate, one being in the interest of the individual, and the other in the interests of the public. The proposal of the hon. member would make the Bill purely an income tax, so far

as it related to persons trading in more than one name. It would apply to everyone throughout the colony who was in partnership; and the collection of the tax would involve a lot of trouble, because there was no machinery in the Bill for firms to furnish the necessary returns, as there was in regard to incorporated companies. An incorporated company was bound now to make certain returns under the Companies Act; but registered firms were not compelled to make any return under the Act, being, to all intents and purposes, private individuals. There were some persons trading who were not incorporated companies, and it seemed to him the objection to the Bill was due, not so much to any opposition to the duty, as to a dislike of the idea that someone else alongside them would not be taxed to the same extent as themselves. If they ceased to be incorporated companies, they would be free. On the other hand, he knew that all persons carrying on large businesses would, with few exceptions, be glad to be incorporated. As he said the other evening, as time advanced the firms would become incorporated, rather than be liable to the extent of everything they possessed, in regard to a company over which one had no direct control. There was a desire that firms not incorporated should be made to pay the tax as well as the Bon Marché and other such companies; but, after all, the proposal now made would not go as far as the hon. member would like, for there were plenty of people doing business here who had no partners, but were trading in the simple name of one person, and perhaps they were doing as big a business as those firms having half-a-dozen names in their title. The proposal of the hon. member would not catch those persons. The registration of firms had nothing to do with this Bill, which was to put a tax on dividends, and on the profits of incorporated companies the shareholders of which had limited their liability. He could well understand that limited liability companies did not like a tax, and if he belonged to such company he would not like it any more than themselves. He did not want to go further at this time than the Bill proposed; but the Bill went to a certain length in order to obtain revenue.

It was proposed to tax incorporated companies, and if there were two or three persons in a firm incorporated, who need not be incorporated, they could avoid paying the tax by going back and being no longer incorporated. The Incorporated Companies Act was not intended for two or three people, and he believed the smallest number that could incorporate under the Act was five, the intention of the measure being that it should apply to a large number of shareholders wishing to get a considerable amount of capital, in order to carry on a great undertaking, and also to limit the liabilities of those persons who had invested. He hoped the amendment would not be agreed to.

Amendment put and negatived.

Definition of "Company":

MR. MONGER moved that all the words after "1894," line 3 in the definition of "Company," be struck out, namely "or a life insurance company, or a fire, fidelity, guarantee, or marine insurance company." Much could be said in favour of the Premier's contention for exempting life insurance companies, while taxing those which did a fire, fidelity, guarantee, or marine insurance business; but a consideration of the commissions paid by life insurance offices to canvassers and agents showed that a tax of 1 per cent. on the gross premiums could easily be borne.

THE PREMIER: The Committee had already decided that life insurance companies should be taxed. In South Australia and New South Wales such companies paid the income tax, while in Victoria they were exempt; and there were strong reasons for a similar exemption in this colony, which could not be urged in favour of fire and marine companies. By inducing people to provide for old age and for their families, life insurance companies were of great service to the State; nevertheless their profits were very large in comparison with the annual premiums, and that was, perhaps, some reason why they should be taxed. Those who had policies knew that, after a number of years, the surrender value bore a considerable proportion to the total amount insured, in some instances about one-third.

MR. ILLINGWORTH: Less than that.

THE PREMIER: The surrender value would be a direct profit on the invest-

ment; for instance, £10 on a series of payments amounting to £30 would be a fair rate of interest. Whatever might be said for life companies, there was no apparent reason for exempting fire, fidelity, and guarantee concerns which were strictly trading businesses, and as a rule were not mutual. Their profits went to shareholders in the ordinary way of business, whereas in a mutual life company the profits were distributed amongst the insured. After all, a tax of 1 per cent. on the gross premiums would not amount to a large sum, even for all the fire and marine companies in the colony.

MR. MONGER: Something under £1,000 a year.

THE PREMIER: They could well afford to pay that, and the loss would ultimately fall on the assured. There was not much, perhaps, in the contention that the duty would interfere with the actuarial arrangements of life companies, for it would only mean that the profits would be so much less; still, the mutual system was doing much good to the colony, and as a rule the money was locally invested.

MR. MONGER: What about the Equitable?

THE PREMIER: That company might be an exception, but probably all the others invested here more money than they received locally, because Western Australia was the best place for investment at present, owing to the high rates of interest obtainable. If the hon. member would agree to exempt life companies, he would be glad to support the amendment.

MR. ILLINGWORTH: A point which had not been raised previously, and which should have weight, was mentioned in the *Australian Insurance and Banking Record* of 19th June last, as follows:

In April we stated the English law on the subject of the incidence of the income tax on life insurance bonuses, that law being that bonuses declared by mutual offices are not taxable, while those declared by proprietary offices are taxable. On both points the judgment of the House of Lords—the final judgment—has been obtained. But the Victorian Commissioner of Taxes, either ignorant of the law or instructed by the Government to "try it on," has insisted upon payment of income tax upon bonuses declared by the Australasian mutual offices, and in at least one instance (to our personal knowledge) has inflicted a fine

upon a taxpayer who thought that he was not called upon to include a bonus in his return of income. This year, however, the claim has very properly been resisted, the recalcitrant being a well-known barrister (his name, however, has not been disclosed). The case was heard first in the Melbourne District Court, before Mr. Dobbin, P.M., on 14th April, judgment being given against the Commissioner of Taxes on 25th April. The Commissioner of Taxes appealed to the Supreme Court, and when the order came before Mr. Justice a'Beckett, it was referred to the Full Court, which, on the 12th inst., held that the taxpayer was not liable, thus confirming the judgment of the police magistrate.

That decision had been upheld on appeal to the House of Lords, and income tax in Victoria was no longer collected from life companies; yet, in the face of that decision, the Committee proposed to impose a similar tax here.

MR. A. FORREST: Such companies paid income tax in Adelaide.

MR. ILLINGWORTH: In that case the Government were collecting the tax contrary to law, and no one had chosen to appeal.

THE ATTORNEY GENERAL: In South Australia, the tax on life companies had been expressly provided for; in Victoria it had only been provided for by inference. The Legislature had not made the Act sufficiently clear.

MR. ILLINGWORTH: The judgment of the House of Lords was adverse to the whole principle.

THE ATTORNEY GENERAL: Not to the principle, but to the fact that there was not power reserved by the Victorian Act.

MR. ILLINGWORTH: The power of the British law had been deliberately used to exempt Victorian life policies from the income tax, and hon. members would follow a good example in concurring in that exemption. The contracts of life companies with the insured were unalterable, and involved vast sums of money on insurances now current. Premiums paid were received upon trust, and the profits were not distributed till the death of the insured, when the State received its proportion in the form of probate duties. He hoped the time was not distant when life insurance would be undertaken by the State. It was estimated that the average life policy was for less than £300.

MR. MONGER: Who said so?

MR. ILLINGWORTH: Therefore a large proportion of the policies were held by poor people. The tax would involve a readjustment of charges, which would tend to discourage insurance. To tax such companies would be a grievous mistake.

MR. MONGER: How about a company which dealt with both life and fire insurance?

MR. ILLINGWORTH: Only mutual life companies need be exempted. But for that omission there were reasons which did not exist in regard to other companies; and he urged hon. members to be satisfied with striking out guarantee companies and to leave life insurance companies.

MR. LEAKE: Perhaps the Attorney General could explain the sub-clause. It was thought life companies had been struck out, but they were left in in Clause 8. He (Mr. Leake) did not know whether it was right or wrong to say that hon. members had been tricked over the Bill.

THE PREMIER: In what way?

MR. LEAKE: Hon. members were told, first of all, that this was a Dividend Bill, and now it was found to be a Bill to tax insurance profits of all sorts.

THE PREMIER: The hon. member was not here when the Bill was considered in Committee.

MR. LEAKE: But when the Bill was read a second time he was present.

THE PREMIER: But the hon. member did not know what was done afterwards.

MR. LEAKE: It could be seen from the Bill what had been done, and the second reading was passed as a Dividend Bill.

THE PREMIER: The measure was a Dividend Bill still.

MR. LEAKE: It was now a Companies Duty Bill, and if it had come forward in that form, the second reading would have been opposed.

THE PREMIER: The hon. member had been away and did not know what had been done.

MR. LEAKE: The House had not been treated properly, but had been tricked into passing the second reading.

THE PREMIER: What had really taken place was that the Bill was passed through Committee without amendment, and there was an express understanding that the Government would, on the

report stage, make amendments to provide that all companies doing business in the colony exclusively should pay tax on their dividends, and that companies doing business in this colony and also elsewhere should pay tax on the profits made in the colony.

**MR. ILLINGWORTH :** The Bill now submitted was not an expression of the will of the House.

**THE PREMIER :** The amendments he now proposed were exactly the amendments agreed upon between hon. members and himself. Hon. members would see it was proposed that a company doing business in the colony and elsewhere should pay tax on profits made in the colony, and a company doing business in the colony exclusively, and publishing a profit and loss account, should be taxed on dividends only. That was the exact understanding, so far as he knew, between the House and himself.

**MR. ILLINGWORTH :** Why was the title of the Bill altered ?

**THE PREMIER :** Because one part of the Bill dealt with duty on dividends, and another part with duty on profits, and, therefore, it would not be quite right to call the measure a Dividend Bill merely. It might have been more appropriate to call it a Dividend and Companies Bill.

**MR. ILLINGWORTH :** The Premier would then have been in order.

**THE PREMIER :** But it was now proposed to alter the title so as to describe the Bill as one to impose duties in respect of dividends or profits of incorporated companies, and that would describe exactly the contents of the measure.

**MR. RASON** expressed the hope that hon. members would allow life insurance companies to be exempt from the operation of the Bill; otherwise, the State would certainly be discouraging the very class of people it was the duty of the State to encourage, and would be putting a direct tax on thrift. In this matter hon. members might well be guided by what had happened in other colonies. In Victoria in 1879, a Bill to tax life insurance companies was brought in and rejected by a large majority; and in 1892 a Bill was again brought in, and again rejected. There was on the latter occasion a demonstration in the House

of Assembly, petitions being presented from all parts of Victoria, and the Bill was rejected by an overwhelming majority. In South Australia, in 1893, a similar Bill was brought in and promptly rejected; and in Tasmania in 1892 a measure was introduced to levy a tax of two and a half per cent., and this was also rejected by an overwhelming majority. Even in England, where bonuses on life insurance companies were exempt from income tax, there was a small duty on the policies. For some years this duty was 2s. 6d. per cent., but even that was considered too much, and was reduced by the late Mr. Gladstone to 6d. per cent. That showed the feeling in regard to the taxation of life insurance companies, even in the old country. If fire, fidelity, and marine insurance companies had no claim for exemption, certainly life insurance companies had every claim. In the other colonies, with only one exception, life assurance companies were on a mutual foundation, and the profits took the shape of bonuses to the members, and the tax proposed would fall on individuals who ought to be encouraged instead of discouraged.

**MR. MONGER :** Hon. members seemed to be generally in favour of exempting life insurance companies, and he would like to impress on the Committee the terms which such companies were prepared to pay for the introduction of business. Life insurance companies, in return for business introduced, were prepared to hand over practically the full amount of the first year's premium, and also a big percentage on the second year's premium. Most of these life insurance companies had agencies in every town in the colony; and even if premiums were paid through the head office, the local agent received his commission from the company.

**MR. ILLINGWORTH :** And it was a very poor business.

**MR. MONGER :** The agents seemed to make a good business of it. If the recognised representative of the Australian Mutual Provident Society in Roebourne received a commission of five per cent. on all premiums paid in that district, surely the company, if they could afford to give such a commission on premiums whether paid through the head office or through the agent, could

afford to give the Government one per cent. on the gross premiums actually received. He would like to have an expression of opinion from hon. members as to whether they desired this portion of his amendment to be withdrawn.

MR. ILLINGWORTH: As the hon. member could not amend his own motion, he (Mr. Illingworth) moved that in line 3, the word "mutual" be inserted before "life."

MR. MONGER withdrew his amendment in favour of the new one.

MR. VOSPER: How was the word "mutual" to be defined? It was known what a mutual life insurance society was, but if the word "mutual" were put in, there would have to be another definition clause, or an insurance society might be called "mutual" which was not mutual at all. What had the Attorney General to say on the point?

MR. WOOD: The member for Central Murchison (Mr. Illingworth) had better leave the clause as it stood.

MR. ILLINGWORTH said he was quite willing to do that. The amendment was moved really on behalf of the member for York.

MR. WOOD: The amendment would give rise to a lot of trouble, because proprietary insurance companies had altered their systems, to a certain extent, to give those who had insured with them the same advantages as offered by the Australian Mutual Provident Society.

Amendment withdrawn, by consent.

MR. ILLINGWORTH moved that all the words in the fourth and subsequent lines be struck out.

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

Clause 4—Returns to be made of dividends declared and of duty payable thereon:

THE PREMIER moved that in lines 2 and 3 the words "having its head office or chief place of business in Western Australia" be struck out, and that the words "carrying on business in Western Australia and not elsewhere" be inserted in lieu thereof. The object of the alteration was to make Clause 4 applicable to companies doing business in the colony only; and subsequently he would propose a new clause to deal with every mining company and every company carrying on business here and beyond

Western Australia. If members looked into the amendments of which he had given notice, they would see that incorporated companies in the colony would pay on their dividends, and those doing business in the colony as well as outside the colony would pay on the profits made in this colony.

Amendment put and passed.

THE PREMIER further moved, as consequential alterations, that in line 3, after "being," the words "a mining company or" be inserted; that after "on" in line 4 the word "life" be inserted; that in lines 5 and 6 the words "and whether declared in Western Australia or elsewhere" be struck out; that in line 14 the words "and a proportional sum for every part of twenty shillings" be struck out; that the first proviso be struck out; and that in line 1 of the second proviso the words "and also" be struck out.

Amendments put and passed, and the clause as amended agreed to.

Clause 5—Mining companies to be deemed to have chief place of business in Western Australia:

THE PREMIER moved that the clause be struck out.

Put and passed, and the clause struck out.

Clause 6—Foreign companies other than mining and insurance companies:

THE PREMIER moved that the clause be struck out.

Put and passed, and the clause struck out.

Clause 7—Meaning of term "assets":

THE PREMIER moved that the clause be struck out.

Put and passed, and the clause struck out.

Clause 8—Returns in case of insurance companies duty to be paid on premiums:

THE PREMIER moved that in line 2 the word "life" be struck out.

Put and passed.

MR. ILLINGWORTH: The word "life" had been struck out, but the words "or any other insurance or assurance business whatever" remained. Those words would include life insurance business.

THE PREMIER: Life insurance companies were excepted.

MR. ILLINGWORTH: That was a defect in the clause.



MR. EWING: A life insurance company was not a "company" within the definition, and, therefore, did not come under the clause.

THE PREMIER moved that in line 3, after "whatever," the words "except life insurance" be inserted.

Put and passed.

THE PREMIER moved that in paragraph 2 the word "gross" be struck out, and "net" inserted in lieu thereof. It was not quite fair to charge a percentage on the gross premiums, and it would be fairer to say "net premiums."

Put and passed.

THE PREMIER moved that in lines 1 and 2 of paragraph 2, the words "and shall be counted so as to include any commission or discount, but to" be struck out.

Put and passed.

THE PREMIER moved that after the word "premiums," line 1, paragraph 2, the words "and shall" be inserted.

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

Clause 11—Duty to be paid before dividend is paid:

THE PREMIER moved that after the word "dividend," line 2, "or profits chargeable with duty" be inserted. The clause would then read:

It shall not be lawful for a company, or for any person on behalf of the company, to distribute any dividend or profits chargeable with duty until the duty payable in respect thereof has been paid.

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

New Clause:

THE PREMIER moved that the following be added, to stand as Clause 5:

*Mining Companies and Companies carrying on business beyond Western Australia.*

Every mining company, and every company which carries on business within and also beyond Western Australia, shall, on or before the first day of April in every year, forward to the Colonial Treasurer a return in the prescribed form containing the prescribed particulars, and verified by a statutory declaration under the hand of, and made by an officer of the company, stating the amount of profits made by the company in Western Australia during the year ending the thirty-first day of December immediately preceding the return.

Every such company shall, at the time of making such return, pay to the Colonial Treasurer a duty equal to one shilling for every twenty shillings of such profits.

Provided, that mining companies, if they declare any dividend during the year for which such return is made, shall, before paying such dividend, forward to the Colonial Treasurer a return in the prescribed form and containing the prescribed particulars, and verified by a statutory declaration, stating the amount of such dividend, the date when it was declared, and such further particulars as may be prescribed, and shall at the time of making such return pay to the Colonial Treasurer a duty of one shilling for every twenty shillings of such dividend; and such payment shall be taken as a payment on account of the duty payable on the profits for the year, and the company on making the yearly return shall have credit for such payment, and a return of any amount overpaid.

Provided, that the duty payable for the year One thousand eight hundred and ninety-nine shall only be in proportion to the unexpired portion of the year after the coming into operation of this Act as compared with the whole year.

Provided, also, that this clause shall not apply to any company which carries on insurance business only.

Put and passed.

New Clause:

THE PREMIER moved that the following be inserted after Clause 9:

*In case of winding up.*

In the event of the winding up of any company, duty shall only be payable on any moneys distributed among the shareholders in excess of the amounts actually paid up on the shares.

Put and passed.

New Clause:

THE PREMIER moved that the following be added, to stand as Clause 23:

*Secrecy.*

Every officer or other person engaged in the execution of this Act shall maintain the secrecy of all matters that may come to his knowledge in the course of his duty or employment, and shall not, directly or indirectly, communicate any such matter to any person or reveal the same in any way, except for the purpose of carrying into effect the provisions of this Act, and on any default in the premises shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

Put and passed

Title:

THE PREMIER moved that after the word "dividends," the words "or profits of incorporated companies" be inserted.

Put and passed, and title as amended agreed to.

Bill reported with further amendments.

## PUBLIC EDUCATION BILL.

## SECOND READING.

The MINISTER OF MINES (Hon. H. B. Lefroy), in moving the second reading, said: This Bill more properly belongs to the Minister of Education; but as that Minister sits in another place, and our Constitution Act provides that any Bill for appropriating any part of the consolidated revenue fund, or for imposing, altering or repealing any rate, tax, duty, or import, shall originate in the Legislative Assembly, it is necessary for someone in this House to introduce the measure. In the Governor's Speech, presented to Parliament at its opening, a promise was made that the Education Act should be amended so as to provide free education in the public schools; and this Bill is introduced solely with the object of carrying out the promise already made to the Parliament of the country. An attempt was made last session to introduce free education in this colony; but owing to certain difficulties which then arose, the Government having introduced a consolidating Bill, instead of an amendment of the Education Act, the Bill was withdrawn, and consequently free education was not given to the country, as the Government desired it should be. This Bill provides that parents shall be compelled to have their children educated, and that the education shall be made as efficient as possible. In order to carry this out, it has been deemed advisable to repeal the Act of 58 Victoria, No. 30, which provided for compulsory education; and more effective provisions are contained in this Bill. The first part of the Bill provides that no fees shall be paid for children between six and 14 years of age attending any Government elementary school, and it then goes on to provide that fees shall be paid for children who have reached the age of 14, and attend technical schools or night schools under the control of the Government. It also provides that every child under the age of 14 must attend a Government school every day during the time the school is open, if such a school be within a certain distance of the child's residence. The Bill also provides many excuses which will be accepted for non-attendance at school, one of these being that the child is receiving efficient instruction at home or elsewhere. And further,

as the Bill provides that a child must either be attending a Government school, or be receiving efficient instruction elsewhere, it specifies what shall be deemed to be efficient instruction, and therefore enacts that any school which has been certified as efficient by the Minister of Education shall be a school the attendance of any child at which shall be accepted as a reasonable excuse for the non-attendance of that child at the Government school. There are penalties for parents neglecting to send their children to school; and, as the State takes upon it the education of children, and as that education is made compulsory, the machinery for compelling children to attend school must be made as effective as possible; therefore a truant officer of the department will be empowered to accost children in the street to ascertain if they are going to school, and take steps to compel them to attend school if he finds that they are not doing so. There is nothing very novel in the Bill, which is practically a condensation of the measure brought down last session, without embodying the provisions of the principal Act. In fact I may say that all the amendments of the present Education Act which, in the Bill introduced last session, were proposed to be made, are embodied in this short measure which is now presented to the House.

MR. ILLINGWORTH: The Bill gives free and compulsory education?

THE MINISTER OF MINES: That is so. We have had compulsory education hitherto, but we have not had free education. This Bill gives free education, and at the same time makes the machinery for compelling children to attend school more effective than it has been in the past.

MR. GEORGE: But will the Government find them schools and teachers?

THE MINISTER OF MINES: I believe the Government are doing quite as much to provide schools as has been done in any country. So far as I am aware, the Government have opened schools in almost every part of the colony where there is sufficient population to warrant their establishment; and I am quite certain that the member for the Murray (Mr. George) will find that his district is not being neglected; and, if he is able to satisfy the Education Depart-

ment that there is a number of children in his electorate who are not receiving education, the Minister of Education will meet their wants in every possible way.

MR. GEORGE: He has no money for the purpose.

THE MINISTER OF MINES: Another short clause provides that bursaries granted by the Government shall be open to competition by the children attending all schools in the colony which are certified by the department to be efficient. I do not know whether many of such private schools will be prepared to compete for these bursaries; I should imagine not. I know that in the past it has been customary that these bursaries should be given by private individuals rather than by the State. In the old country, where so many exhibitions and scholarships are offered for the encouragement of education, they have mainly been given by private individuals; but it appears that in these colonies the State is expected to undertake such duties, and bursaries have been granted by the Government in the past to be competed for by the scholars at the Government schools. In the future, all schools that are efficient within the meaning of this Bill will be able to compete. It will not be necessary for me to say more with regard to the Bill, which speaks for itself.

MR. LEAKE: What about the religious clauses?

THE MINISTER OF MINES: The Government have not touched upon that subject in this Bill.

MR. LEAKE: They are leaving the position as it was?

THE MINISTER OF MINES: In this respect we are in no way interfering with the principal Act. This amending Bill is introduced simply for the purpose of giving free education, and making the compulsory clauses a little more efficient than they are; and, as we provided that every child must attend an efficient school, we have defined what an efficient school shall be.

MR. LEAKE: It is not proposed to interfere at all with religious teaching in schools?

THE MINISTER OF MINES: Certainly not. The Bill provides for nothing of the sort, and in no way interferes with the clauses of the present Act having reference to special and general religious

instruction. The Bill deals with nothing except the matters I have submitted to the House; and I feel certain that hon. members will do everything in their power to pass this Bill as quickly as possible, so that the people of the colony may know that their children will, after a certain date, be able to receive free education. Certain machinery will have to be provided to carry out the provisions of the Act properly, and it is as well that the Education Department should know as soon as possible when the Bill will become law, in order that adequate provision may be made for carrying it into effect. Last session there was considerable discussion on some of the clauses embodied in this Bill; but I believe hon. members will allow them to pass on this occasion without such a long discussion as we have had previously, seeing that disputed points have already been threshed out as much as is necessary. I therefore submit the Bill with confidence for the consideration of the House, and shall be happy to explain in Committee any clauses that may not be clear. I beg to move the second reading.

MR. MORAN (East Coolgardie): I do not propose to speak on this Bill during the second reading, except to mention that I am supporting it. However, I may be permitted to express my regret that a wrongful accusation should have been made last week against a certain religious body by an evening newspaper published in Perth. I sincerely regret that the *Daily News* should have written such a leading article as it did, accusing the Roman Catholic body of fomenting a public and organised opposition in regard to the Bill. I regret it, because it is untrue; and being untrue, it is absolutely unjustifiable; and being unjustifiable, it is to be deprecated that an attempt should be made to place the cap upon the wrong head. We have heard something of a religious organisation and agitation throughout the length and breadth of Western Australia; but every hon. member knows that the agitation has not proceeded from the body mentioned. I think that argument was unjust, and that such arguments should not be used until the charges made have been supported by positive proof. We all know perfectly well that this has been a disagreeable question in this Chamber.

MR. GEORGE: Move a vote of censure.

MR. MORAN: We know that this colony decided to have free, secular, and compulsory education, and that the Government propose to give us free, compulsory, and religious education. [SEVERAL MEMBERS: No.] We know that the State has decided to impart religious instruction, and to make it compulsory on children to attend that instruction—[SEVERAL MEMBERS: No.]—at all events, to attend those schools.

MR. GEORGE: That is right enough.

MR. MORAN: This is a fact, anyhow, that the State is subsidising the teachers. Everybody will have to pay a share of the salary of the teacher who imparts religious instruction. It may be found that, for the sake of peace and quietness in the community, the Roman Catholic body may be willing to allow this matter to rest as it is; and if a compromise can be arrived at in this House, by which a fair provision shall be made that the parents of Catholic children, and the parents of children of all denominations, shall have a guarantee that their children shall not receive the religious instruction without the parents' consent—if that request be granted, it may be found that the accusation of the *Daily News* is totally without foundation; but, if that request be not granted, it may turn out that the accusation has some justification; because there will always be, on the part of certain parents, an insuperable objection to their children being taught dogmas in which those parents do not believe. If those who object to religious instruction in State schools waive their objections and only ask for a guarantee that their children shall not be taught something objectionable to them, I say that, for the sake of the peace and quietness of the community, such a happy compromise will be hailed with rejoicing by those who have so often been unwillingly obliged to discuss this question in the House.

MR. ILLINGWORTH: I rise to express my intention to support this Bill, and also to express, though from a different standpoint, my desire to move on similar lines to those of the member for East Coolgardie (Mr. Moran). Personally, I think I may take the liberty of saying, on behalf of the Dissenting bodies in this colony, that they have just the same objection as they have ever had to the books

used in the schools, and to the religious operations in connection with our school system.

THE PREMIER: What! The whole of the Dissenting bodies in the colony? That is a very wide statement.

MR. ILLINGWORTH: The whole of the Dissenting bodies of this city have held a meeting and have passed a resolution on the lines which I am now indicating, to the effect that, while they have in no way changed their opinion and their feeling regarding the question, yet at the present moment, and for the sake of peace, they have no desire to press their views, provided that the religious teaching be not forced on their children.

MR. DOHERTY: Hear, hear.

MR. GEORGE (Murray): I quite agree with what previous speakers have said, and I only rise with the idea of preserving for my children's benefit the reputation which I have tried to gain during my life, and not to throw any obstacle in the way of getting free education for our children. The Premier, the other night, with his usual inaccuracy, and attempting, as usual, to throw mud at any person who does not deserve it, made an interjection to the effect that the member for the Murray was a person who did his best to throw out the Education Bill last year. If the right hon. gentleman has any sense of decency whatever, he will search *Hansard*, and will find that in the division in which the member for the Murray voted, that member voted with the Premier of this colony. That is all I have to say on that point. If the Premier has any desire whatever to be considered a gentleman, he will immediately apologise for making such a misstatement.

THE PREMIER: What is that?

MR. GEORGE: I shall not repeat it. You ought to be attending to your duty. The only other remark I have to make is that, while we are to have free and compulsory education, there is nothing in this Bill to make it compulsory on the Government to provide the means for having children educated; and despite the statement of the Minister of Mines, who I believe is perfectly sincere in what he says, the Education Department of Western Australia, with all the will in the world to give the children free education, cannot even find teachers,

and cannot build schools—at least, they could not do so a week ago; and if the Ministry or the Premier require proof of that statement, it needs only to search the archives of the Education Department, when it will be found that there are two districts in my electorate which have been crying out for education for the last three years; and the reply of the Department is: “We are quite willing to accommodate you, but we have not got the money to build schools, we have not the money for bricks and mortar; we can get teachers, but have not the money to pay them.”

At 6-30, the DEPUTY SPEAKER left the Chair.

At 7-30, Chair resumed.

MR. GEORGE (continuing): I wish to point out once more to the Government the necessity of seeing that, in their Estimates this year, some provision shall be made for giving educational facilities in the various districts throughout the colony where at present there are no such facilities. I particularly referred this evening, and I intend to refer again, to parts of the Murray district where there are numbers of children at present growing up in ignorance, except for such tuition as the parents can give. In these places there are no Government schools within reasonable distance from where the children dwell. One of the places is North Dandalup, but I am pleased to say that during the last few days I have received from the Education Department an intimation that, at last, these children are to be provided with a school and teacher. This is after three years' hard and consistent “pegging away” at the Department, who were quite willing to give the facilities, but were prevented by the fact that sufficient funds were not placed at their disposal. Another place is Yallup Brook, where there are from 22 to 24 children who have no educational facilities, the nearest school being at Drakesbrook, three and a half miles away, and Wagerup, about the same distance.

MR. A. FORREST: I walked three miles to school.

THE PREMIER: So did I.

MR. GEORGE: At the time the Premier walked three miles to school, he could have walked thirty miles without any danger; but at the present time, owing to the scarcity of employment in the colony, there are numbers of men on tramp, and, as a matter of fact, some portion of these men frequently pillage unprotected railway stations in the district, and take away settlers' goods which have been thrown indiscriminately into the frivolous shelter-sheds there provided. Under the circumstances, parents naturally refuse to allow their children to go long distances on roads where there is very little settlement, and where they might come into contact with tramps, and perhaps be outraged.

THE PREMIER: No, no.

MR. GEORGE: The Premier says “no,” but he does not know as much about the Murray district as I do.

THE PREMIER: I know it very well.

MR. GEORGE: The Premier did not know much about the district last year, when he had the assurance to say there were no children on the Murray.

THE PREMIER: I never said that.

MR. GEORGE: I never assert what I am not prepared to substantiate, and the Premier did make that statement.

THE PREMIER: Where?

MR. GEORGE: In the House. I do not suppose that it is reported in *Hansard*, because the reporters are allowed some discretion, and have sufficient sense to leave out such frivolous and unworthy remarks. The residents on the large timber reserves are of considerable importance in connection with education, and, in what I am going to say, the member for West Kimberley (Mr. A. Forrest) will be able to bear me out. Frequently the timber in a given district is cut out within a year and a half or a couple of years, and the workmen with their wives and families have to shift further on, and they are naturally desirous of having educational facilities. In the case of the Jarrahdale and Pinjarrah mills, the scene of work has been shifted ten or twelve miles, and the children are now nine miles from any school. I do not want to blame the department, because this is one of the difficulties they have to contend with in connection with timber stations, and always will have to contend with. But surely the machinery

of the department could in some way be improved, so that the children of the timber employees shall not be deprived of educational facilities; and the department might reasonably consider whether a staff of travelling teachers could not be organised to, at any rate, fill up the gap until proper permanent schools are required. With these few remarks I support the Bill, which I am very pleased to see brought in, and which I hope will pass at once. I hope further that the loss of the school fees to the Treasury may be recouped in some way or other, without discharging a lot of civil servants.

MR. HIGHAM (Fremantle): As a consistent advocate of free, secular, and compulsory education, I am very glad to see the Bill in its present form, although the measure does not go so far as I would desire. We cannot get purely secular education so long as hon. members in another place hold their present views; and I am satisfied to accept a Bill providing free and compulsory education, in the hope and good faith that at no very distant date, we may be able to get purely secular education. It is most objectionable that state school teachers should be compelled to teach religion in the public schools. We all know that teachers, apart from the question of good conduct or good character, are chosen on account of their learning, and their faculty for imparting that learning to children. Outside of those qualifications, their religious convictions and beliefs are of no consideration whatever to the Education Department. It is all very well to say that the religious instruction they are supposed to impart is only elementary; but we know that even elementary religious education can be imparted with a certain bias. It may be that some of the State school teachers are atheists, and this fact must have a tendency to bias the elementary religious education given to the children under them. One objection has been raised, and it was raised properly by the Minister of Mines last year, that small country schools would be deprived of religious instruction. I maintained last year, and I maintain now, that the clause which provided for a minister or other duly authorised person imparting religious instruction during stated hours to children under their care, properly subdivided into sects,

would provide all that is necessary. I do not think the Bill which we discussed last year, and which was a very good one, would have prevented, if the parents of children did not object, the State school teachers being the duly authorised instructors of religion in the schools. I am satisfied in the circumstances to accept the Bill as it is, and I hope it will pass without material amendment; but I look forward to the time when the system of education will be purely secular and certainly compulsory.

Question put and passed.

Bill read a second time.

#### PAPER PRESENTED.

By the COMMISSIONER OF CROWN LANDS: By-laws, Cottesloe Roads Board.  
Ordered to lie on the table.

#### CUSTOMS CONSOLIDATION AMENDMENT BILL.

##### SECOND READING.

THE PREMIER (Right Hon. Sir J. Forrest), in moving the second reading, said: This is not a lengthy Bill, and the object is to give the Minister in charge of the Customs Department power to appoint ports at which customs agents may be licensed, and to provide that licenses may be granted. In the principal ports of the colony, every man should not be a customs agent: there should be recognised persons duly licensed to deal with the customs-house for the public and to give security to the public, which I think will conduce to the better transaction of public business. The Bill is copied from the Victorian Act of 1890, and the Collector of Customs here has asked that the same law shall prevail in this colony. The Bill will not apply to the small ports of the colony, but only to some of the larger ones. It will not prevent any trader from doing his own customs business, but it will prevent every man being a customs agent and doing business for other people. I think the Bill will give security to the public, because people in the country will then know who the customs agents are, and will be able to trust them to a greater extent than at present, rather than entrust their business to persons of no responsibility. Agents being licensed and under a bond, the public may depend on their carrying

out the duties entrusted to them in a faithful and proper manner. Any person who is licensed can appoint his clerk to assist him, with the approval of the Minister, because it would be impossible for an agent to do all his business himself.

**MR. A. FORREST:** It would be better to allow the Collector of Customs to grant the licences.

**THE PREMIER:** The granting of licenses would be no trouble, as licenses would not be applied for every day, and it would be a mere matter of form rather than anything else. This Bill has been asked for, and I believe it is viewed with favour, in Fremantle especially, that being the largest port in the colony. Although I have not spoken to the members for Fremantle, I believe the Bill is viewed with favour in Fremantle; and, at any rate, the measure will certainly give protection to the public and it will also be far better for the customs-house itself, as the customs authorities will know exactly whom they are dealing with and whether the persons are more likely to do the business in a proper and satisfactory way than now, when the work is everyone's business or anyone's business. I beg to move the second reading of the Bill.

**MR. HIGHAM (Fremantle):** I have much pleasure in supporting the second reading of this Bill. It has been asked for during several years by the Fremantle Chamber of Commerce, the shipping community, and all interested in the transaction of business between the merchants and the customs of Fremantle. The Bill, so far as I can judge, is a very reasonable one, and the fee which it is proposed to charge to the customs agents, £1, is so small that it will not be any hardship. The Minister or his officer who will control the issue of the licenses, will have some supervision as to the character of the customs agents.

**MR. GEORGE:** What about the bond?

**MR. HIGHAM:** Although the maximum amount is heavy, I do not think the Minister who will have to carry out the Bill will find it necessary to insist on a bond of £250 in every case. If hon. members will look at the Bill they will see that it says that the bond is not to exceed £250, which will give the Minister

some discretion as to the amount of the bond. Anyone who has had experience with the so-called customs agents at the different ports will realise that fraud has been perpetrated against merchants and shopkeepers who have confided goods to these so-called customs agents. It is essential not only to the customs but to the merchants that some supervision should be exercised over the customs-house agents, so that it is seen that only men of good character and fair standing should have the privilege of obtaining goods from bond. This Bill will be generally welcomed by the mercantile community throughout the colony, especially at Fremantle, where the necessity for such a Bill has long been felt.

**MR. SOLOMON (South Fremantle):** I have much pleasure in supporting the second reading of the Bill, as it is required for another reason besides those reasons which have been spoken of. It must be recollected that the agents represent country people to a large extent, and very frequently country people find that they are unable to send the exact amount of duty down to the agent, and they have to trust the agents, sometimes with a considerable amount, by sending down open cheques; therefore it is necessary that the customs-house agents should be above suspicion. I think this Bill will secure, more particularly, country people, and prove to them that they are dealing with men who are accredited to a great extent, especially as the Collector of Customs in dealing with these men will have to see that they are persons of good character. From a personal experience with the Collector of Customs, I am sure he will only issue licenses to men who are well known. I think the public generally will be satisfied with this Bill, and I hope it will be accepted in the spirit in which it is being given, to protect the mercantile community generally.

Question put and passed.

Bill read a second time.

#### MOTION—IVANHOE VENTURE G.M. CO., COMPENSATION.

Message from the Governor, received on the previous Tuesday, recommending an appropriation of £2,500 to be paid as compensation to the Ivanhoe Venture Gold-mining Company, was considered.

## IN COMMITTEE.

THE PREMIER (Rt. Hon. Sir J. Forrest): I beg to move:

That this House approves of provision being made on the Estimates for £2,500, for the purposes recommended in His Excellency's Message No. 5.

Hon. members will recollect that in the early part of last year there was a great deal of trouble at Kalgoorlie in regard to the disputes in connection with the Ivanhoe Venture lease. Looking back upon that difficulty and trouble, I think I may say it was a very unfortunate business. Misunderstandings arose between the miners who were digging for alluvial gold and the leaseholders, and at one time the matter was of very serious moment. Unfortunately the difficulty was very much increased through the exact meaning of the law not being pronounced. In fact if we look through the whole of the troubles in connection with these disputes, we will find that wrong interpretations of the law, as we now know it to be, were given one after another. It is a curious thing that only recently—I think about a month ago—we had a definite decision by the Full Court in regard to the law as it existed between alluvial miners and leaseholders previous to the last amending Act. Had the interpretation of the law recently given been stated before, a great deal of the trouble, unpleasantness, and difficulty which occurred would not have arisen, because we all know, and I am sure members will recollect it, that the men who were engaged in this controversy always maintained and took their stand upon the fact that they were acting under the law. They were loud in their protests that they did not wish to do anything unlawful, that they were only doing that which the law permitted them to do, and which the tribunals of the country supported them in, when a decision was asked for. But for one reason or another the case never came before the Full Court until very recently, and then the Full Court altogether upset the decisions that had hitherto been pronounced. When one looks into the law as it existed under the Goldfields Act of, I think, 1895, one is astonished—at any rate I am, and always have been—at the interpretation which was placed on the law prior to the decision of the Full Court. It came to this: It was held that

a leaseholder taking up land under lease from the Crown, and going through all the formalities required by the law and regulations, was liable to have his lease invaded by other persons, and then to be dispossessed of all right to the land on account of clause 36, which gave to the alluvial miner a right of entry within 50 feet of the reef. I have always been at a loss to understand how such interpretation could have been placed upon the law. The decision of the Full Court altogether upholds the opinion I have always entertained in regard to the matter, and I am glad it has been given, my only regret being that it was not pronounced long ago. I repeat, that had it been given long ago, a great deal of trouble and difficulty would have been avoided, because the alluvial miners always maintained they did not wish to do anything illegal, all they desired being to act on their strict legal rights. We know the consequence. We know that the Ivanhoe Venture Lease was invaded and taken possession of by alluvial miners. They pegged out the lease, and under the regulations there was some reason for so doing; but I have always thought—though I do not speak without some diffidence before members of the legal profession—that the regulations could not override the law, and that if the law gave the alluvial miner any rights at all, it was against another man in the same boat as himself, and not against the Crown lessee. It was, however, held that the alluvial miner could invade the lease, and in fact I do not know what he could not do. I believe he could peg out the shaft of the lease, and take the gold that was on the surface; and we know what occurred. In broad daylight a number of bags of rich ore, which had been raised by the lessees, were carted away in the face of the lessees by a lot of men who thought they were acting under the law in taking away these men's property, carting it right off the ground to a battery half-a-mile away, and asking to have it crushed at that battery. It was an extraordinary state of affairs in any British country, one would think, that people should get a lease from the Crown, sink a shaft, and obtain gold; and that some one else, under some other right, a small right under a little clause in an Act, should override all this machinery. This



right of entry under Clause 36 was considered to override all the machinery of a Crown lease; that, in fact, the Crown lessees had no rights at all. One would have thought such a thing could not happen in these days; but it did happen. As I say, ore belonging to these lessees was taken away in broad daylight and handed over to be crushed. I have always maintained that if a subject suffered through the operation of the law, or from the decision of a magistrate or Judge, the State is not bound to recompense that subject. If the State were bound to recompense such persons, I do not know where we should get to. If every time a law acted adversely to the interests of anyone, or every time a decision of a magistrate or Judge acted adversely to one's interest, whether in depriving that person of his liberty or his goods, the State were to be held responsible for it, it would be a very dangerous principle, and one I could not subscribe to. Holding these views, of course I look upon a proposal such as I am placing before members to-night as a very grave matter, and one that the House is bound to deal with very carefully. There is no doubt the Ivanhoe Venture Company lost a lot of money. I believe they have lost the lease, because they have gone into liquidation. They have not had an opportunity of developing their lease or selling it; and the law expenses were great, and all this expenditure was borne by persons who thought they had a good title when they held a lease from the Crown. Eventually the position of affairs became something like this. The lease was of no use to those people under the decision given as to the law. They were continually in law suits, they could not work their ground, and at last they became what is generally called insolvent, not being able to pay their way.

MR. VOSPER: What is the name of the case in which the whole of the decisions previously given were upset?

THE PREMIER: I think it was the Peak Hill case, but it is the same principle, the application of Clause 36 to a Crown lease. There is no doubt about the point being the same, namely, the right of alluvial miners to enter upon a lease held from the Crown and to take away the gold, peg out the shafts, and prevent the lessees from working their

leased land. So much did this matter become public property, and receive public attention, that last session there was a motion that a Select Committee should be appointed to inquire into the whole question; and, as members are aware, that Select Committee reported, the report merely stating the facts, but not making any recommendations, because I believe they thought they had no power to make recommendations. Eventually, however, a resolution was moved in the Assembly to this effect:

That, in the opinion of this House, the report of the Select Committee on the Ivanhoe Venture Lease discloses the fact that that company suffered great hardships and total loss of their capital through the recent disturbances at Kalgoorlie and the defects in the mining laws of this colony, which the company could not have foreseen, and this House is of opinion that this company is deserving of the consideration of the Government.

That resolution was passed without a division being called for. I spoke on the resolution, and I remember saying something like what I have said to-night in regard to the great responsibility the House was taking in asking the Government to give consideration to this company. I told the House what I would do, saying that, in the event of the motion passing, I would ask His Excellency the Governor to appoint a Commission, and the Commission should investigate the matter, and that we should then be able to decide, after they had carefully investigated the matter, what would be our conclusion. On the 25th November last, a Royal Commission of members of this House was appointed for the purpose of inquiring into the case, and they were asked to report as to whether any liability attached to the Government in regard to the hardships and losses alleged to have been suffered by the company for the reasons stated in the resolution of the Legislative Assembly; and, if so, what consideration should be shown to the company. On the 6th December the Commission reported that it had been suggested on behalf of the company that the Government was under no legal obligation to make reparation for the losses sustained; but if effect were to be given by the Government to the resolution of the Assembly, the Commission were unanimously of

opinion that the lessees should receive at the hands of the Government reimbursement of their actual pecuniary loss; and the actual pecuniary loss was assessed by this Commission at £5,037 11s. 9d. Hon. members will notice that the Commission also reported that, if the appeal which was then pending were determined in favour of the lessees, the latter might recover the costs, amounting to £902 15s., together with the gold in the hands of the stakeholders, valued at £1,177 10s.; in fact, that they might recover £2,080 5s.; and if they had been able to recover that amount, then the loss of the company as found by this Commission would have been £2,957 6s. 9d. I have taken steps to ascertain how the matter stands at the present time; and I have before me a paper which I shall be glad to place in the hands of hon. members, showing that the amount found by the Commission as the loss of the company, £5,037 11s. 9d., has to be reduced by £902 15s., which the lessees never paid. A compromise was effected, I believe, between the lessees and the representatives of the alluvial miners, by which the alluvial miners agreed not to claim the costs, £902 15s., on condition that the lessees gave up the gold, to the value of £1,177 10s.

MR. ILLINGWORTH: Very generous!

MR. GEORGE: A good bargain, I should think.

THE PREMIER: That was eventually agreed to; so that, if you deduct £902 15s. from £5,037 11s. 9d. found by the Commission to be the loss, you will get £4,134 16s. 9d.; and if you add to that the gold which belonged to the lessees, and which they gave up—£1,177 10s., we find that the total loss of the company was £5,312 6s. 9d. In addition to this, the company has lost its lease and fixtures, which were sold by the sheriff under a *fi. fa.* issued by the plaintiff in the action which the Full Court decided that the plaintiffs were not entitled to institute against the company. I do not think the Full Court decided that in this case, but in a case similar in all respects, so far as I know, to the case now under review.

MR. VOSPER: I should like to know the name of that case for reference.

THE PREMIER: I do not know the name of it; however, I have seen the

judgment in full. My friend the Minister of Mines gave me the judgment of the Court, so I have read it and I know that I am accurate in stating the decision; therefore, taking the Commission's report as the basis of the loss these people sustained, the total loss must be taken as £5,312 6s. 9d. The report of the Commission came before the Governor, and was sent to the Cabinet by his Excellency; and I will let hon. members into a secret, and say that we were then in somewhat of a difficulty, because we had not opposed the motion in this House, which, by the way, went through without much discussion, neither the Opposition nor the leader of the Opposition saying anything, so far as I remember. I said a few words. The tribunal to which we referred the question was composed of hon. members who were thought well qualified to deal with a case of this sort; and Ministers found themselves in a difficulty in not agreeing to carry out the conclusion at which the Commission had arrived. Still, for all that, we did not act upon the report the Commission furnished. We informed the lessees that we were unable to agree with the opinion expressed by the Commission, as we could not conceive that it had been intended by the Legislative Assembly that the colony should be liable for the whole of the actual loss sustained by the company; and, as there was a difference of opinion in that respect, I personally felt, as I feel now, that the Legislative Assembly never intended that, when it passed the resolution that the Government should show some consideration for the company. Of course I fully explained at the time that the resolution meant giving the company a sum of money; but I never understood it to mean that the Government were to pay all; and that is the opinion I still hold. Although we wished to defer in every way to the wishes of the Legislative Assembly, yet not being able to understand what the House meant, and more than that, being of opinion that the House did not mean that the whole of the loss sustained by the company should be paid by the Government, we decided to defer taking any further steps till we had an opportunity of again placing the matter before this Chamber. We then thought we would be acting in accordance with the resolu-

tion of this House, and also sufficiently in accordance with the recommendation of the Commission, by asking His Excellency to recommend that an appropriation be made out of the consolidated revenue fund for £2,500. I do not think I need say any more. Hon. members, I think, know the facts as well as I do. There can be no doubt about this, that there is no legal obligation on us to do anything; but we knew that last session, when we passed the resolution asking the Government to show the company some consideration; we knew that when we appointed the Commission; and therefore it seems to me that I cannot use the argument that we should take no notice of the recommendation of the Commission, the appointment of which I myself advised. In fact, if there has been any error at all, the responsibility for the error must rest upon this House, and not upon the Government. I am assured that the company have incurred great losses—there is no doubt about that—through the administration of the law, which, after all, appears not to have been the law. If we had had a good decision at the beginning, if we had had the decision of the Full Court at the beginning, all this trouble would have been avoided. The lessees would have been able to get on with their work; they would have had possession of their lease; and those alluvial miners who so often said that they were only acting in accordance with what they considered to be the law as laid down by the Courts, and that they never intended to do anything else, would not, I take it, have pursued the course which they adopted. I hope the House will look into this matter carefully. I do not think we can do otherwise than pass this resolution, unless we wish to go back on what we have done. We appointed a Select Committee. Upon that Select Committee's report we passed a resolution; and upon that resolution the Government appointed a Commission. The recommendation of that Commission was deferred until this House could state what it intended when it said that the company were deserving of the consideration of the Government. This House has now an opportunity of saying how much it considers to be due to this company. Of course we all understood that the compensation was to be in money. I pointed that out clearly at the time.

MR. MONGER: Can we increase the amount?

THE PREMIER: No. I pointed out clearly to the Committee that it was a pecuniary compensation, and the only reason why the Government did not pay the money on receipt of the Commission's report was that we could not agree with the Commission as to the amount. If the Commission had recommended £2,500 at the time, I have not the slightest doubt that the sum would have been paid long ago; but as they recommended £5,000, and we thought that was more than this House intended to give, we were unable to carry out the resolution of this House and the desire of the Commission. I beg to move that the motion standing in my name be adopted.

MR. VOSPER moved that progress be reported.

Motion put and negatived.

MR. VOSPER (North-East Coolgardie): Before the question is put, I wish to enter my protest against the motion being passed in this hasty manner. I understand that the Message of the Governor has been on the table of the House only a little time, and that a request has been made on the part of several members, unfortunately not present, that an opportunity might be afforded to read the official reports and consider the whole question. That opportunity, by the decision of the House in Committee, cannot be given; and, consequently, it becomes absolutely useless to debate the question under the circumstances. I content myself with simply protesting against the course now being pursued.

MR. ILLINGWORTH (Central Murchison): I protest from another standpoint. The Government are aware that the leader of the Opposition (Mr. Leake), who is strongly interested in this question, is unavoidably absent. Had that hon. member an opportunity of expressing his views, he might materially affect the decision of the Committee; and it is somewhat unreasonable on the part of the Government to resist the motion to report progress.

MR. EWING (Swan): I am quite unable to agree with the last two speakers in the conclusion they have apparently come to, namely, that people have not had sufficient time to properly consider this

question and to prepare for debating the motion. The alluvial question is one that has been stirring the minds of people in Western Australia for a considerable time past, and is a question of which the member for North-East Coolgardie (Mr. Vosper) knows something. At any rate, if that hon. member knows nothing now, he is not likely to know anything in a week's time.

MR. ILLINGWORTH: That is not the question.

MR. EWING: The motion has been before Parliament sufficiently long to enable hon. members to see what is intended, and to fully and properly debate the question and record their votes for or against. I agree with the Premier that unless there are some extraordinary circumstances in this case—circumstances which are outside an ordinary action brought in a law Court, where a man thinks he has not obtained justice—we should not give compensation. To carry the motion in the absence of such exceptional circumstances would, I quite agree, open up an avenue at the end of which we might never arrive. But here we have the case of a leaseholder, not a leaseholder from a private individual, but a leaseholder from the Crown, and practically from the Parliament of this country; and therein, to a large extent, lies the distinction between this and an ordinary action at law. We, as the Parliament of the country, are simply in the position of an ordinary lessor who says, "Well, I granted you a lease for certain things which I and you anticipated you would get; we both thought we were granting to you the right to all the gold within the four corners of your pegs, subject to certain reservations." Parliament is in the position of a lessor dealing with a lessee who has been misled, and has suffered considerable loss; and no person can say it would be inequitable or unjust for a lessor, who found that the lessee had not received that which was intended, to say "I will give you some compensation for that which you have lost, and which I admit you should have gained." We must admit that the alluvial miner, as well as the leaseholder, is of great benefit to Western Australia, and there is not an hon. member who would say that the alluvial miner does not deserve full consideration

at the hands of Parliament, or that we must not endeavour to do him justice. On the other hand there are sections of the community, with whom we must deal with equal justice; and the circumstances of this case seem to call for special interference by Parliament. The law passed in Western Australia dealing with gold-mining leases, first provided that a person could peg out, and, after going through the ordinary routine, obtain, if the Minister so willed, a lease for a certain number of years. That was a lease of the whole of the mineral deposits within the four corners of the pegs, and the lease, and the section under which it was granted, contemplated clearly that not only quartz veins and lodes, but also that other deposits of gold should be worked. Looking at that instrument of lease, and at the Act of 1895, it is difficult to come to the conclusion that a certain Judge in this colony has come to, namely, that alluvial gold was practically excluded from the lease. That conclusion, in my opinion, is absolutely untenable; and I quite agree with the Premier when he says that it is hard to conceive, looking at the instrument of the lease issued under the Act, and looking at the provisions of the Act itself, how any person in the world, lawyer or layman, could come to the conclusion that the lease did not include all the deposits of gold within the four corners. Then the Legislature, in its wisdom, realising there were certain persons in the community who earned their living by searching for and obtaining gold over the auriferous areas, decided that those persons, who were really poor men, with their picks and shovels and process of dollying, should not be deprived of the right to enter on leases to search for and obtain that which was practically of no use to gold-mining companies. Section 36 of the Act was therefore introduced, and that section says that any miner "shall have the right to enter upon a lease for the purpose of searching for and obtaining gold." That is the only section under which the alluvial miner deprived the Ivanhoe Venture Company of the gold they had won—not only the alluvial gold that, at the time they pegged, was remaining on the lease, but the gold they had won in the past, and gold they had in bags on the dump—that is the only

section under which the alluvial miner had the slightest colour of right. I might put a simple proposition which I think every person in the House will appreciate. Suppose I, as a lessor, were to grant a lease of a piece of ground, and give another person the right to enter and cut firewood on that ground, could it be contended for one moment that I deprived the lessee of the right to interfere with any of the firewood there? All the alluvial miner was ever given by the Act was the right to enter, search for, obtain and keep such alluvial gold as he could find. That being the law, so far as my slight knowledge of the question goes, it seems to me that in the position established in the Court of Appeal there has been a grievous mistake. The first process issued against this company was a writ by the alluvial miners, restraining the company from working their lease, and claiming all the alluvial gold within the four corners of what afterwards became the alluvial claim. Judgment was recovered in the Supreme Court against the company for the whole of the gold they had won; and it was practically held, under the section I have mentioned, that the leaseholder from the Crown had absolutely no right to the alluvial gold on his lease—that the alluvial miner had everything in the shape of alluvial gold within the four corners of his pegs. In my humble opinion, it would be hard to conceive a more mischievous construction of the law; but that was the construction placed on the section, and on that construction a verdict was given against the company. The company were not only deprived of the gold they had won, but were prevented from winning any more of the gold which the Crown had expressly leased to them. Now, we turn to the next step, when the Ivanhoe Venture Company appealed against this decision. Through want of funds, and through having to go through the exhaustive process of litigation—and protracted litigation is financially exhausting—the company found themselves unable to continue the appeal, and, as a consequence, they lost practically everything they had leased from the Crown. Then came the decision in the case of the Peak Hill Company, which decision established the fact that the company had been

wrongfully deprived, by a process of law, of that which was really their property. And now the matter has come before this House in a motion, asking that the Ivanhoe Company shall be paid some compensation for that which it is now admitted was taken from them without right or justice. That is the proposition the House has to face, and it is not, therefore, an ordinary case of lessor and lessee—of lessee suing lessor in the Supreme Court and being unsuccessful. Here we are the lessors, and we gave the lessees something which we and they thought included all the gold they chose to win on this property. We find, however, that by a process of law the company are unable to get that which we leased them. By the ordinary rules of justice, if I sell a man goods, and I find there is some misconstruction of the contract, or that by some means or other, either by a legal process or otherwise, the man does not get what I sell him, surely I am justified in going to him and saying, "I have sold you all that gold, and all that material; you have been unable to get it, and, therefore, I will give you something to make up for that which you have lost." That, I think, would commend itself as an individual action, and I fail to see why similar action on the part of the State, when the State is the landlord, should not also be commendable. Seeing that the Premier has realised that the country has leased to those persons something of which, though no fault of their own, they have been deprived, we ought as a Parliament go to them and say, "We leased you all the gold; you did not get it, either through a vagueness in the instrument or through some legal misconstruction, and, as ordinary reasonable men, we will give you something to, in some degree, compensate for the loss you have sustained." I have much pleasure in supporting the motion, because everybody would commend an action of the kind on the part of an individual, and, as I said, I fail to see why such an action should not be commendable on the part of the State.

MR. MONGER (York): It gives me great pleasure to support the motion, and I am surprised there should have been even the slightest objection from members on the Opposition side. It is well-known that I was one of the members of the

Select Committee which first took this question into consideration, and the unanimous report of that Committee was to the effect that this company had suffered considerable hardship. The only thing that astonishes me in the present motion is that the Government do not carry out, to the full extent, the recommendations of the Royal Commission specially appointed to inquire into the alleged loss or losses of this company; and I think, in the circumstances, that any person showing the slightest opposition to the motion before us now does so really from want of knowledge of the whole circumstances in connection with this company. We all know that two or three years ago property situated in the locality of the Ivanhoe Venture Gold-Mining Company's lease was taken up and purchased for considerable sums of money by English and foreign trading companies; and one portion of the evidence which the Select Committee had before them was the evidence of Mr. Harry Wilson, a large mining speculator, a man who is respected on the fields and throughout Western Australia. Mr. Wilson was called and asked what was the nature of the proposed deal between himself and the Ivanhoe Venture Company, and his reply was, "The capital of the company was to be £150,000 in £1 shares, £50,000 in shares were to go to the vendors, and I believe £5,000 or £10,000 in cash. The purchasing company had to provide £20,000 for working capital and calls would make it up to £30,000." Those were the terms of the agreement at the time, and when later on Mr. Wilson was asked whether he thought the people he was representing would have been able to carry out the terms of this arrangement, his reply was, "I feel perfectly sure they would have been carried through." It is needless, in these circumstances, to point out that this company did suffer considerable harm and considerable loss through the weakness of our mining laws as they were supposed to stand in the opinion of one gentleman. It must be satisfactory to everyone to know that the ideas that that one gentleman held have recently been set aside, and the position which this unfortunate company now find themselves in is absolutely due to the opinion which that one gentleman had formed. This Committee

is now asked to vote the Ivanhoe Venture Company or the members of that syndicate the sum of £2,500 for a property which, according to the evidence of Mr. Wilson, to-day would have been worth—well, there was no placing any value on what the property might have been worth, but the shares would have been quoted at their par value. In these circumstances it seems to me that the least hon. members can do is to support the motion before the Committee, and grant this company the small amount the Government are asking members to vote.

MR. CONOLLY (Dundas): I have listened with no small interest to the ground that has been traversed by the Premier and the member for the Swan (Mr. Ewing) in stating the circumstances which led up to this difficult and I may say complex question, with reference to the Ivanhoe Venture, and on this occasion I avail myself of the opportunity of saying a few words on the matter, being the only member of Parliament present who had the honour of sitting on the Royal Commission appointed in reference to the Ivanhoe Venture case. I must say, as a member of that Commission, that I very fully indorse the words which have just been expressed by the member for York with reference to the Government not having adopted in full the recommendations of that Commission, and not having brought forward a recommendation for the granting of the full £5,000 to the Ivanhoe Venture Syndicate. I have thought, and I may say without betraying any confidence the members of the Royal Commission thought, that £5,000 was a very small and a very reasonable compensation indeed to grant to this company for the loss of their property, more especially when we consider the circumstances which led to their heavy loss. There can be no doubt that the whole Ivanhoe Venture case has been involved in many unforeseen and most contentious surroundings. First of all the trouble originated with what I think is reasonably considered to be the somewhat short-sighted Act which was passed in the Parliament of this country. At the time the Goldfields Act was passed it was considered that alluvial gold was only a surface deposit throughout our goldfields, and in the framing of our mining law

this was taken into consideration, and no allowance was made for the possibility of finding deep alluvial gold on our fields. As hon. members know, subsequently instead of finding alluvial gold on the surface, as it had hitherto been found, deep alluvial gold was discovered, and this entirely revolutionised the whole working of our mining law. I may say this fresh discovery on the goldfields, in combination with the mining law then in force, was very largely to blame for the difficulties which ultimately resulted. I do not think any one sitting in this Assembly who followed up the circumstances surrounding this matter can doubt that this difficulty was further complicated by the most—to most minds—unreasonable and remarkable decision which emanated from the Supreme Court bench of this colony. With all due deference which a member of this Assembly should bear to that high tribunal in this country or in any other British dominion—and I may say I consider the Supreme Court should be criticised with the greatest possible care—I do say that the decision which emanated from the Supreme Court bench on this question was at the time considered most unreasonable, and most difficult for any mining man, or any man acquainted with mining matters, to understand. Furthermore this opinion was fully justified by future events. That is to say, after the damage had been done, similar questions came before the Full Court of the colony, and the decision of the Supreme Court Judge was found to be at fault. I consider it a most peculiar circumstance with reference to the Ivanhoe Venture lease, that the mere fact that a Supreme Court Judge of the colony was proved to be in a great measure at fault, and through that fault the company suffered to the extent it did. I consider that alone, although the injury may not be attributed necessarily to the Parliament of the colony, should recommend the motion, as I believe it does to every member in this Chamber. I may reiterate what I have already said, that I am sorry the Government did not accept the full recommendation of the Royal Commission, because although the Government rightly considered that the Parliament of this colony did not intend to give the Ivanhoe Venture Company com-

pensation to the extent of the full loss they had sustained, still it appears to me that £5,000 was a small fraction of the heavy loss which undoubtedly the company suffered. Therefore, I need scarcely tell hon. members that it is my intention to give my fullest possible support to the Government, not only as a member of the Committee, but also as a member of the Commission which sat on this question. And while giving my support to the proposition, it is accompanied with the regret that the full recommendation of the Commission was not adopted.

MR. VOSPER (North-east Coolgardie): As the discussion has gone on, and hon. members have been anxious to justify the opinions they hold in connection with this matter, I feel it incumbent on me not to allow the question to come to a decision until I have said something to exhibit my views on the subject. I would like to say in the first place that I am placed in a position of peculiar difficulty. I have placed before me now, by the courtesy of the Minister of Mines, the judgments of the Supreme Court Judges on the Peak Hill case, to which the Premier referred. With the exception of the newspaper reports, I have not previously perused these judgments. I would point out to hon. members that there have been a number of judgments delivered on the subject, and involved in them are a number of more or less intricate points of law; and for anyone to anticipate the line of argument taken up by the Premier is expecting too much. Consequently I do not come prepared to debate the question on its merits, and I am inclined to think that a majority of members are in much the same position as myself, and will vote for the most part in ignorance. They will vote in favour of His Excellency's Message because the Government have introduced it and it is supported by the members of the select committee. As far as the debate has progressed, there is a little of the *suppressio veri* in it. Members have forgotten the real history of the case. The most important and cogent portion of the judgment given by his Honour the Chief Justice is contained in these words:—

Do these words confer upon the alluvial miner a mere license to enter upon another

person's leasehold, search for, obtain, and carry away as much alluvial gold as he can without in any other way interfering with the lessee's right under the form of his lease? or do they confer upon him an exclusive license to get and carry away all the alluvial gold which may be found upon a definite area contained within the limits of the leasehold property? Looking only at the words of the statute which I have quoted, it would be impossible I imagine to say that they conferred anything more than a mere license.

Stripped of all elaboration, that is the pith of the Chief Justice's decision, agreed to by Mr. Justice Stone, and dissented from, on what I think reasonable grounds, by Mr. Justice Hensman. Taking the matter on the basis of the Chief Justice's decision alone, and remembering also the history of the company, I still ask the Committee to consider whether the company are entitled to the comparatively large sum for compensation which the Government propose to grant them. What is the history of the case? It must be separated in the minds of members from the affairs at Peak Hill; for although perhaps the same point was raised in the Peak Hill case as in the Ivanhoe Venture case, and the decision given upon this point in the Peak Hill case may cover the Ivanhoe Venture Company, yet the circumstances in regard to the two companies were totally different. The decision of the Chief Justice and Mr. Justice Stone is to the effect that the alluvial miner has a mere license to mine for alluvial gold, to obtain as much as he can lay his hands on, and take it away, provided he does not go within 50 feet of the reef or lode marked out by the leaseholder. In the case of the Ivanhoe Venture Company, the company went a great deal further than marking out a reef in the ordinary manner. They were not content to mark out one line of lode, or half a dozen, but they put in pegs co-equal in position with the original pegs of the lease. When asked to define their lode, they pegged out the entire lease, and therefore showed their determination to keep the alluvial miner from exercising that right which the Chief Justice referred to. That was the first cause of all the friction and disturbance at Kalgoorlie; and the alluvial miner at that time did not know whether he had the right claimed, and no one else knew, because the point has only been recently decided by the Full Court; but from beginning to end there was a deter-

mination on the part of the leaseholder to exclude the alluvial miners.

MR. GEORGE: Were the company not protecting their own rights?

MR. VOSPER: I do not think they were. They were endeavouring to strain the law or to evade it. The law said they should peg off the ground so that the alluvial miner could not come within 50 feet of the lode or reef, and under the old law that was considered sufficient; but, instead of being content with that, the company, I repeat, endeavoured to strain their position, and to take undue advantage of the law; consequently they pegged out the entire lease and endeavoured to exclude the alluvial miner from exercising any rights upon it. I think that had the Ivanhoe Venture case come before the Full Court, instead of the Peak Hill case, the Full Court would not have given the same decision.

MR. EWING: The issue in the Ivanhoe case was not distinguishable from that in the Peak Hill case. The decision means that the miners should not only have been non-suited in the Peak Hill case, but also in the Ivanhoe Venture Company case.

MR. VOSPER: I shall wait till such decision has been given by the Full Court. The Ivanhoe Venture case has never been before the Full Court, and the Full Court have never had an opportunity of expressing an opinion on it. I decline to be guided by the hon. member's opinion, not having sufficient faith in his legal sagacity to be bound by it, and, as far as I am concerned, I trust he will cease to trouble me with it.

MR. EWING: I am not troubling you, but the Committee.

MR. VOSPER: I am troubling the Committee, consequently these interjections are not required. I am contending that the features in the Ivanhoe Venture case are materially different from those in the Peak Hill case, and that the first cause of this trouble arose from the attempt of the company to strain their legal position. They were not content with the rights they had, the rights which the decision of the Full Court may be said to have secured them; but they went further, and were desirous, not only of keeping what they were justly entitled to, but of excluding everyone else from his rights. According to the Chief Justice, the alluvial miner had the



right to invade the lease, and he invaded it. What was the result? The company, in order to frustrate that right, pegged out the whole ground, and thereby raised the first disturbance which took place. The result was, that from the very beginning there was a considerable amount of acrimony and heat brought into the whole question. A series of injunctions were taken out, and a serious disturbance occurred in regard to the question as to what was the correct interpretation of the law. What made the position of affairs still more awkward was that no one was more at sea on the point than the legal advisers of the Crown. The Government committed themselves to an interpretation of the law that was absolutely preposterous, and issued regulations which brought the country almost to revolution, and made it a mockery to the world for gross injustice. If Parliament and the country are responsible for the blunders made by the Government, the Ivanhoe Venture Company certainly deserve consideration at our hands; but I assert that we cannot appeal to the Committee, and ask them, of their own free will, to grant a vote of £2,500 simply because the Government have blundered. Such a request would not be entertained for one moment by any other colony. The Government erred most atrociously from start to finish.

**THE ATTORNEY GENERAL:** It now appears that the Government were right in their law.

**MR. VOSPER:** They were right, if the contention is admitted that the decision in the Peak Hill case also governs the Ivanhoe Venture case.

**MR. HUBBLE:** We are speaking of the Ivanhoe Venture case.

**MR. VOSPER:** I know. If the Peak Hill case is on all fours with the Ivanhoe Venture case, the Attorney General is right; but I say that ere the Committee are competent to decide upon the matter, they require to have before them all the judgments that have been delivered, and all the evidence that led up to those judgments. I ask what member can say he has read all the evidence and the judgments. I do not believe there is one in the Committee who can say he is perfectly acquainted with all that has been done in that way. It becomes a

mere bald assertion to say the cases are on all fours. The hon. member for the Swan says they are, as does also the Attorney General; but I assert they are not, and my statement is quite as good as theirs.

**THE ATTORNEY GENERAL:** A great deal better.

**MR. VOSPER:** It is only a question of assertion, after all.

**MR. HUBBLE:** Deal with the Peak Hill case when it comes on.

**MR. VOSPER:** I am trying to argue that the Peak Hill case is not on all fours with the Ivanhoe Venture case, and therefore I am not out of order, or irrelevant, in discussing the point. Exactly 12 months ago I stood absolutely alone in this House.

**A MEMBER:** There are a lot more.

**MR. VOSPER:** I mean that I stood alone in my advocacy of certain principles. I am quite content with my position. I say the Committee are not in a position to come to a decision on the point I have raised; and seeing that the leader of the Opposition has requested an adjournment in the matter, so that the subject may be debated from every point of view, and seeing also that the Premier himself has admitted there is a grave constitutional principle involved, there should be an adjournment. The question is this: is the colony to be responsible for this interpretation of the law on the part of the judges, magistrates, Attorney General, or Minister of Mines, or for legislation of a mistaken character passed by Parliament? We have been told by the member for the Swan to-night that Parliament stands in the position of the lessor, and that it leased certain property under mistaken ideas. If Parliament makes mistakes of this kind, there is an old rule which may be applied, to the effect that the good of the individual must give way to the good of the country.

**THE ATTORNEY GENERAL:** There are exceptions to that.

**MR. VOSPER:** There are exceptions, but they are only exceptions which prove the rule. That being so, I think the Committee should pause before passing a vote of this nature, because it involves a very serious constitutional principle. The right hon. the Premier is doing justice in saying the Committee require to look into the question with very great

care and consideration; and yet we find other members, not loaded with the responsibilities resting upon that right hon. gentleman, urging the Committee to settle the matter to-night; that we shall get the whole thing decided and done with. The question having been discussed to some extent to-night, I ask that as a matter of fair-play the debate be adjourned until Tuesday next. I know the leader of the Opposition intends to say a few words.

MR. DOHERTY: Where is he?

MR. VOSPER: Elsewhere. I think members are entitled to take a little relaxation occasionally. The leader of the Opposition is entitled to a little consideration on the part of the Committee. At any rate, I earnestly hope the Government will consent to progress being reported at this stage, so that we may have the opportunity of discussing the question on Tuesday next.

THE CHAIRMAN: Do you move that progress be reported?

THE PREMIER: Wait till a little later.

MR. VOSPER: Very well; if you will consider it a little later, I shall be satisfied.

MR. KINGSMILL (Pillarra): The Committee and the country generally have been furnished with such abundant literature in the reports of various public meetings, law cases, debates in Parliament, and other matters in connection with these proceedings, that anything further would be almost nauseating; but there are one or two points on which I propose to touch, more especially as I was one of the members of the first select committee appointed to inquire into this case. The conclusion I arrived at from the evidence I heard when attending the sittings of that committee was to the effect that most certainly the legislation then in force, and the action taken by the Government at that juncture, were to a very great extent responsible for the calamity which befell the unfortunate company whose affairs we have now under discussion. There is no doubt Clause 36 of the Gold Mines Act was, to a very great extent, the cause of the loss of the lease of the Ivanhoe Venture Gold-mining Company; and I cannot but think the action of the then Minister of Mines, in relation to the most ridiculous regulations promulgated by the Govern-

ment at that juncture, did a great deal to accentuate the state of public feeling towards that company, thus contributing to the loss of their lease; but on the other hand, one of the conclusions to which I came with regard to the action of the alluvial miners was that, if certain of them were justified legally in pegging out the shafts and the ore dump of that company, I must say they had absolutely no moral justification for so doing. As to whether or not they were legally justified, I am not prepared to state. I believe it has been held in some of the courts that they were; but I must maintain my point that they had absolutely no moral justification. I take it that this motion now before the House is one that does not call for much discussion. I take it that the action of the House, when it passed that resolution affirming the desirableness of giving consideration—and the Premier has admitted that, when the resolution was passed, no other meaning was attached to the word “consideration” except pecuniary compensation—when the House passed that motion, it practically put this discussion out of court with regard to the desirableness of awarding the company compensation; and I think that practically the only subject to which hon. members can now address themselves with reason is the amount of compensation, and not whether the compensation should or should not be made. In consideration of the many losses of that company; in consideration of the fact, as I have pointed out, that, in my opinion at all events, those losses were greatly due to legislation passed by the Government, and still more due to the promulgation of what is known as the 10ft. regulation at that juncture, which accentuated public feeling to such an extent that it almost got out of hand; in consideration of these matters, and of the fact that the amount recommended by the committee does not seem exorbitant, in view of the losses of the company, I must support the motion now before the House.

MR. QUINLAN (Toodyay): I desire to say a word or two in support of the Message from the Governor, and in doing so I am principally actuated by the respect I have for the members composing the Commission which fully investigated the question. So far as I can gather

from their report, they have dealt with the matter thoroughly; and I think the amount fixed upon by the Government is very fair indeed. I am also of opinion that the Government might well have stepped into the breach in the first instance when this unfortunate dispute arose, when prompt action would probably have been the means of saving the country considerable expense. The question then was quite new in the history of mining in this colony; and seeing the unfortunate position in which those people who took up this claim in good faith are placed, and also considering that the matter has been twice before gentlemen competent to deal with the subject—first the Select Committee, whose report is before us, and secondly the Commission—and for the reason that those composing that Commission were, to my mind, the best men who could have been selected; and seeing the recommendation they have made, I have no hesitation in saying this Committee will be justified in voting the sum named.

MR. GEORGE (Murray): It is essential that the voice of the Murray should be heard on this question, and I do not intend to give a very long dissertation, because, if I were to attempt to teach hon. members about mining, they would tell me that I had better stick, like the cobbler, to my last, and deal with matters which I understand. In the course of this discussion, and remembering as I do the trouble caused by this alluvial question, I think perhaps it would not be out of place if the Government were to consider the necessity and the advisableness of appointing some kind of mining court, presided over by a man having special qualifications to act as a mining Judge, in order to deal with those questions which can be properly and satisfactorily dealt with by someone who understands them, instead of by one of our ordinary Judges. I do not wish to speak, or to be understood to speak, in any way disrespectfully of the Judges. There is not the slightest doubt that, as far as they understand a case, they dispense justice fairly; but it has been shown by the member for the Swan (Mr. Ewing), and also by the Premier, that the judgment given by one of the Judges of the Supreme Court has been practically upset by the Full Court—that is,

by the other Judges sitting together. But the unfortunate part of it is that, while the judgment of the one Judge is not upheld by the Full Court, the mischief done by that judgment has not been and cannot be repaired, for the very simple reason that those who profited by that judgment to which I refer are either no longer to be found, or, if they can be found, no longer have the means to give back the money which that judgment gave them, apparently wrongfully; and therefore the question that comes before us is whether, in dealing with this problem, it would not be far better that there should be here, as there are in Victoria, mining boards and specialists to deal with what is really a special question. [MR. KINGSMILL: Hear, hear.] One point which strikes me pretty forcibly with regard to this Ivanhoe Venture question is that, not only had the unfortunate company to give up their lease, but they had actually to give up without recompense the proceeds of the money they had expended in capital and in wages. Even granting that it were fair that they should give up the gold, surely they should have been allowed something for the necessary expenditure incurred in winning that gold. The alluvial miners should not have been allowed to practically take the cash out of the company's safe without contributing anything to the cost of getting it. I do not know the exact amount taken; but, assuming that the gold that had to be given up by the company was worth £2,000, and that the £2,000 had been won at an expenditure of £1,000, surely all that the alluvial miners would have been entitled to was the profit that could be shown in connection with the transaction. They could not rightfully be said to deserve to have, not only the profit, but also practically the money which had been expended to win the gold. It seems to me that the circumstances are pretty nearly parallel with our ordinary commercial practice. We enter into business with a certain amount of capital; we give our time; we pay our wages; and at the end of the year we hope there is a profit. If the law were to decide that the profit must be divided among our workmen, it certainly would have no right to say that the capital should also be so divided. It might be fair to give the men the profit, but it surely would not be right,

and should not be considered right, to give them the capital also. The member for North-East Coolgardie (Mr. Vosper) stated that the majority of hon. members would on this question be voting in ignorance. I think there he spoke a little beyond his book, because, if there is any member in this House who is ignorant of the main circumstances in connection with this alluvial question, that member should certainly not sit in the House at all, and must be very dense indeed; because this question attained such importance in connection with Western Australia that I make bold to say that there is no hon. member who is not fully seized of the main facts of it. We may not know all the intricate workings of the law, and I am very glad indeed that we do not; but we do know the common-sense view to be taken in this question. The Parliament of this colony in their wisdom, or unwisdom, whichever you like to call it—I do not say the Government, but the Parliament of this colony—framed a Goldmines Act with the best intentions in the world, and did so with all the skill and experience they could bring to bear upon it. Having done so, if afterwards it be found that through some mistake or other the law is bad, that the law perpetrates injustice, or allows injustice to be perpetrated, surely it is not wrong for this Parliament to say: "We made a mistake." The law was made presumably in the interests of the country. Parliament made a mistake, and it is surely right that the country should compensate the individual for the mistake made by the representatives of the people. [MR. MONAGHAN: Hear, hear.] Personally, although very much opposed to voting away the public funds, unless there be very good reason for so doing, still, if my voice would give it, I would give the unfortunate people connected with the Ivanhoe Venture every penny of the amount they are said to have lost. I do not think it is dignified for this colony to enter into what you might call a composition with their moral creditors. It is a sort of thing which does not appeal to me; it looks very much like paying less than 20s. in the £; and I think that the reputation of Western Australia should be quite worthy of being upheld, and that, if Parliament make a mistake, they should not be content with paying

6s. 8d. or 7s. 6d. in the pound. We can better afford to do justice in this case than we can to make a paltry composition. If there is any cause why this colony should recompense these people, surely they should be recompensed to the uttermost farthing. It should not be half way. The proposal is something like the Bankruptcy Act passed last session, which makes it possible for a man to go before his creditors, and, instead of paying them the full amount due, to seek refuge by paying a portion of that amount. If the Government could see their way to do that, it would not only be common justice to the unfortunate company, but to the country itself, when it went forth that the Parliament of Western Australia—this or any other Parliament—if they made a mistake by which any individual suffered, and wrongfully suffered, were at any rate prepared to say: We are men enough to allow the finances of the country to repair that injustice.

MR. WOOD (West Perth): I think all hon. members ought to speak to this question, and to say how they intend to vote. I shall support the motion, if for no other reason, for the sake of fair-play to those men who have been done out of their rights through the laws of this country, or the bad interpretation of those laws. The Ivanhoe Company have not only lost their expenses out of pocket, estimated at £5,000 by the Royal Commission, but have also lost the prospective profits they might have made out of that lease. Had they been allowed to work it under the conditions on which they took it up, what would have been the position to-day? They would have been wealthy men to-day, instead of having to appeal to this House for assistance. We cannot possibly estimate the injury done to this company; and so, from the point of view of fair-play, I think this £2,500 is a very paltry sum indeed to give them, and I do not think hon. members ought to object at all to the motion, which will therefore have my hearty support.

MR. OATS (Yilgarn): The member for West Perth (Mr. Wood) said that every member should express his opinion on this motion; and, as a mining man, I cannot avoid speaking as to the rights and position of the alluvial digger. This is a question on which I have thought

very much; and I consider the alluvial digger has the first right to gold found on a goldfield, and that there should be some intelligent board appointed to decide as to the probability of alluvial gold being found abundant enough to pay for the working. There is no one in Western Australia who believes in the rights of the alluvial digger more than I do. The law of 1895 was a mistake, because the rights of the alluvial miner should be determined before the lease is pegged out, and, once the lease is pegged out, all the gold within the four corners should belong to the lessee. So says the instrument which gives the lessee the title to the ground, and the great mistake, as I say, was in passing the Act of 1895 allowing alluvial men to go on leases to search for gold. If there had been a competent board to decide as to the probability of alluvial gold being found, all the worry, commotion, and almost rebellion in the colony would have been prevented. I was on the select committee which inquired into the case of the Ivanhoe Venture Company; and after studying the evidence given, I have no hesitation in saying, with every respect to the alluvial diggers, that they had no right to the gold. The gold found was the alluvial gold found on the top of every reef; and in evidence which I gave in the Supreme Court, I defined a reef as a continuous vein of quartz. If I remember rightly, however, the Judge's view was that a vein of quartz might not be a reef, because it did not contain gold; but I say a vein of quartz, even if at the particular point it does not bear gold, may, if driven along, become gold-producing, and whether gold exists there or not, a continuous vein of quartz is a reef. The evidence given by every witness before the select committee conveyed to my mind that the gold existing there was the outshed of that reef; and I believe that the Ivanhoe Venture lease to-day is, what is common in Kalgoorlie, an "octopus," with leaders extending up, and when they go down, solidifying into one lode. I believe that below the Ivanhoe Venture lease there is a big lode, and the company have, in my opinion, suffered a great deal. As I said before, the alluvial digger should not come on a lease, but should have the first right of searching for gold. The Minister of

Mines has said that the alluvial digger may not find gold there; but, if not, that is the digger's misfortune. In addition to having a competent board to decide as to the probability of alluvial gold being found, the Government should also test ground by boring, or some other method. Last night I asked for a bonus to assist in deep-sinking at Southern Cross; and now I ask the Government to consider the question of boring on new ground, to test whether there is alluvial there or not; and I say this would be one of the best ways of spending money.

MR. VOSPER: I carried a resolution to that effect two years ago.

MR. OATS: I do not deal with the question before the House from a legal point of view, but simply from the point of view of right or wrong. The company took up a lease and they have not had their rights, and they should be compensated handsomely and not meagrely.

MR. RASON (South Murchison): I intend to support the motion, and will briefly state my reasons. As the Premier has said, the subject is undoubtedly a grave one, and the gravity lies in the fact that to-night we are creating a precedent. We need not be afraid of creating a precedent, if that precedent be an outcome of our desire to see that justice be done. In this case, every possible inquiry has been made into the position of the Ivanhoe Venture Company on its merits, and the result of that inquiry clearly demonstrates an injustice has been done. That being so, need we hesitate for one moment in recompensing the company to some extent for the loss they have sustained? In seeking to arrive at a verdict on this point, it is not necessary to take it into consideration whether the alluvial men in this particular dispute were in the right or in the wrong, or whether the company were in the right or in the wrong. The fact remains that the company, through no fault of their own, and through nothing they could foresee at the time, suffered a very serious loss. The State, or the Government, were not at the time in a position to say to the company "You must let the alluvial men have this gold," nor were the Government in a position to say to the alluvial miner "You can take it"; so that whatever loss the Ivanhoe Company sustained was a loss forced on them, and

a loss which they could in no way avoid. I, therefore, have no hesitation in maintaining that the company are entitled to compensation, and that the sum proposed is the very least that could be offered to them under the circumstances.

MR. DOHERTY (North Fremantle): Taking a hint from the member for West Perth (Mr. Wood), I will not record a silent vote. The question is one which probably does not deeply interest coastal members, and is one on which their knowledge does not, perhaps, entitle them to speak, but still it is their duty to see that justice is done. The Government admit, by the mere fact of proposing compensation to the amount of £2,500, that a wrong has been done.

THE PREMIER: The motion is submitted in deference to the wishes of the House.

MR. DOHERTY: That may be, but the Government, by this very motion, admit that a wrong has been done, though I do not say the Government have done the wrong. In any case, if a wrong has been done, it is our duty to compensate the people who have suffered. I, in common with other hon. members, think the amount proposed is not adequate, considering the loss sustained by the company; but if the Government are determined to compromise in this way, the best plan is to support the motion, on the principle that half the amount is better than nothing at all, and may assist people who have lost almost their all. Those interested in the Ivanhoe Venture Company were mostly poor working people, and not magnates like the Peak Hill Company, who, with thousands of pounds at their back, could get legal opinion, and take their case from one Court to another. Indeed, one member of the Peak Hill Company would "run" this country, if he got the chance.

MR. VOSPER: For very sulphurous reasons.

MR. DOHERTY: He is one of those gentlemen who think that money can buy everything in Western Australia.

MR. GEORGE: Is that "gold-plate Simpson?"

MR. DOHERTY: I do not mention names. He is a gentleman who thinks the honour of Western Australia can be bought by gold; but he ought to remem-

ber there are honest men in this colony who cannot be bought.

MR. VOSPER: He takes them all at his own valuation, which is not much.

MR. DOHERTY: It is very small indeed. The member for Yilgarn (Mr. Oats) suggested there should be an intelligent board to determine the presence of alluvial. I do not know whether the men of whom such a board must be formed are born, made or built, or where they are to come from; but they certainly have not appeared yet in this hemisphere.

MR. ILLINGWORTH: It is being done every month.

THE MINISTER OF MINES: An "intelligent bore" would be more useful.

MR. DOHERTY: Yes, much better than the "bores" we see on the Opposition side of the House. The bore wanted is one worked by steam or electricity.

MR. ILLINGWORTH: Or water.

MR. DOHERTY: I hope I have not detained the Committee too long, but I wish to add my support to the motion.

MR. HIGHAM (Fremantle): I had no particular desire to take part in the debate, because as a coastal member I am not fully conversant with mining matters; still I realise that through the peculiar phrasing of the Mining Act and regulations, the Ivanhoe Venture Company have suffered a great injustice. I regret that I with others had a short time ago to give my voice against reporting progress. Why I so voted was because I knew several members had stayed here to-night to discuss this motion with a view to disposing of it, not realising that several prominent members on the other side would be absent.

MR. VOSPER: You take the responsibility, of course?

MR. HIGHAM: We have no desire to rush this motion through, and I would be only too satisfied to see the discussion prolonged for another quarter or half an hour, to give the absent members a chance of coming here and expressing their views.

MR. VOSPER: How are we, then, to keep the debate going?

MR. HIGHAM: If the opportunity be offered, the responsibility devolves on the absent members themselves, and it is unjust to say they have not had sufficient notice of the question. The Premier

tried to bring the motion on at an earlier stage, so as to afford hon. members an opportunity to discuss it fully. Although I represent a coastal district, I have read the various documents relating to this matter, including the reports of the Select Committee and the Royal Commission; and I say the Government of the country are under a moral obligation to the Ivanhoe Venture Company, not to pay them £2,500, but the full amount. I regret that our Standing Orders prevent a private member from bringing forward an amendment to increase the proposed compensation by giving to this company the full award. Taking this claim on its merits, I maintain that a moral obligation rests on the Government to recompense the company that has been absolutely ruined by the defects of our mining legislation, a responsibility which this House must accept.

MR. HUBBLE: Not the mining law, but the Judge's decision.

MR. GEORGE: The Judges give their decision on the laws we pass.

MR. HIGHAM: Our Supreme Court has given a judgment against this mining company, based on our laws. The Judge may have been in default, I am not going to argue that question, I am not a lawyer; but notwithstanding that fact, if the company had had sufficient funds to take proceedings to the Full Court, they might have recovered their position, and judging by the results which we have seen they would have regained their position. But the company are practically ruined; they were not in a position to take the case to the Full Court; and the company were mulcted in heavy costs, robbed of their gold and ruined, and I take it as a matter of common honesty and justice that this Parliament should step into the breach and recompense the company to some extent. As I see there is a prospect of giving this company what the member for the Murray called 10s. in the pound, I shall support the motion, but I should have had much pleasure in supporting a larger amount.

MR. LYALL HALL (Perth): I most strongly support the proposition of the Premier, because I believe it is the province of Parliament to mete out justice to all parties where justice has not been obtained by the ordinary usages. The

danger of creating a precedent should not be considered where justice is concerned. The decision of the Court shows that the company had right on their side, but might prevailed; therefore it is the duty of Parliament to see that right prevails in the end. The company lost their money, they lost their gold and their lease, a lease which was to have been sold for a large sum of money, but this alluvial trouble interfered with the sale, otherwise there would have been a definite sale with a large profit to the company. The members of the company were deprived entirely of the fruits of their industry. When we consider the large sum taken by the alluvial miners from the company's lease—over £10,000—and which the Full Court found was the sole property of the company, the small amount of £2,500 which it is proposed to give to the company as a recompense should, I think, be unanimously granted by the Committee. I intend to vote for the motion.

MR. LEAKE (Albany): I am sorry to say I have not heard the arguments in favour of this motion, although I am told a majority of members have spoken in favour of it. Personally, I am against it, for I do not see how Parliament can be called on to pay the debts of a company, or to put a company on a solid footing again. I do not know whether I am right in saying that the company is in liquidation. Is that so?

MR. MONGER: You ought to have been here, and not ask questions like that, at this hour.

MR. LEAKE: If it is so, into whose pockets will this money go?

MR. A. FORREST: The shareholders of the company.

MR. LEAKE: If the company is in liquidation, why should the country pay the company's creditors?

MR. A. FORREST: Who put the company into liquidation?

MR. LEAKE: This is a question that can be discussed at a future time, when the Estimates are before us, and then we shall have opportunity of looking closely into the matter. I shall certainly not divide the Committee on this occasion, but I presume that hon. members, if the necessity arises, will thresh the matter out; and I think Parliament ought to have full and exact information of the

real position of affairs, as to what the ultimate destination of the money will be. Will it go to the creditors of the company or the shareholders?

MR. A. FORREST: The shareholders.

MR. LEAKE: It is important to know that, as I am not going to vote money to pay a company's debts.

MR. GEORGE: Why not pay the money and let the company dispense it as they like?

MR. ILLINGWORTH (Central Murchison): There are a good many ways of dealing with most questions, and there is more than one way of looking at this one. Certainly the company got into difficulties. The company went to one of the Judges of the land and asked for justice, in the Court. The company obtain a decision, and to use a common expression "go down." Later on another company more fortunate than the Ivanhoe Venture Company, and more wealthy, raise the same question in the same Court, and "go down." The more fortunate company is enabled to appeal to the Full Court, and the Full Court reverses the opinion of the single Judge. Now the Full Court, I undertake to say, is in harmony with the law as it was intended, and as it was passed by Parliament. A Judge of the Supreme Court gives a decision which unfortunately involves great loss and injury to the Ivanhoe Venture Company. Is this the one instance and the only instance of the kind that has occurred or is likely to occur? Is Parliament going on every occasion when appealed to, to reverse or to constitute itself a high court of appeal, not only to reverse judgments, not only to express practically a censure on a Supreme Court Judge, but to undertake to compensate all the wrongs that are done in that Court? Is every unsuccessful litigant, or every man who thinks he has been injured, to come to Parliament and ask for compensation? I know all about the wrong and the injury that is being done in this case. In the first instance I am of opinion, and I have been of that opinion from the very first, that if the Ivanhoe Venture Company had carried out their claim properly, and maintained their claim according to the Act under which the company were working, they would not have been defeated. If the company had marked out

40 feet, 50 feet, 60 feet or 100 feet of reef, and said "This is our reef," and allowed the alluvial men to come in under Clause 36, the company would not have been defeated. I say there is every reason to suppose that from the start to the finish the company were unfortunate in their law advisers. The company were unfortunate in the view the Supreme Court took, but the same thing is occurring every day. The same thing does not occur only in this land, but in every land. A man makes a mistake; he obtains wrong advice from a lawyer; he gets an adverse and improper judgment from the Court, and he is unable to go further. He feels that he is right, but unfortunately he is not in a position to pursue his case to a higher court. If Parliament are going to undertake to review a judgment of this sort, and take on themselves to grant compensation to the individual injured, Parliament will be taking upon themselves a very large order. If it can be established, and can be clearly understood, that Parliament are responsible in any way for judgments of the Court, then I say, if they are responsible at all, they are responsible for a complete reinstatement of this company. If Parliament are responsible for the injury the company have suffered, then Parliament must undertake to reinstate the company in the property of which they have been deprived, and place the company in the position which they ought to be in, and which they would have maintained but for the wrong they suffered. Are Parliament prepared to take up that position? Are we prepared to say, after using our best judgment, so as to express our minds in this Assembly, that we fail to express ourselves in such a way that every Judge on the bench does not interpret the Acts in the way we desire. That we have not been wrong in our decision is proved from the fact that the Full Court does understand, and has interpreted the Act, in the way in which Parliament intended. If we are to review all these cases, where shall we land ourselves? This is a matter it seems to me if the Parliament are responsible for, as some members argue, if we allow it to go unchallenged that Parliament are responsible and the country is responsible—

MR. DOHERTY: Who granted the lease?



MR. ILLINGWORTH: The Government, and obtained £1 per acre for the land.

MR. DOHERTY: Did the Government give a title?

MR. ILLINGWORTH: The Government gave all the title the Act allowed them to give. The title was vitiated by the want of rightly carrying out the Act by the individuals in possession.

THE ATTORNEY GENERAL: What about the gold taken away by the men?

MR. ILLINGWORTH: If you ask me what that was, I will tell you it was common thieving. I do not want to go round the corner to say that, and if I could tell you in stronger language I would do so. As far as taking possession of the shaft and the bags of ore, that was common thieving on the part of the men who did it; and how any Court could maintain them in that act is more than I can tell; but Parliament are not responsible for the thieving, and I maintain that Parliament are not responsible for the decision given in the Supreme Court.

MR. GEORGE: Parliament are.

MR. ILLINGWORTH: Does the hon. member think the Committee responsible for the wrong decision of the Supreme Court? If the Committee are going to sanction stealing like that which took place, where is it to end? If the Committee are to compensate every man who thinks himself injured through the Supreme Court, where is it to end? We constitute Courts, appoint justices and Judges to the best of our judgment, and the Government select the men they think most suitable, the nation practically binding itself to the decision of Court, magistrate, jury and Judge, Supreme Court, and Full Court; and what more can we do to obtain justice for the people? If, after all this care, some wrong is done, are we to follow every case and give compensation? If a man is arrested in the street, charged with a crime of which he is not guilty, and is condemned under the laws of the land for seven years, but subsequently is found to be not guilty, what do we do?

MR. DOHERTY: Compensate him.

MR. ILLINGWORTH: Liberate him.

MR. DOHERTY: We compensate him.

MR. ILLINGWORTH: We have not done so.

MR. VOSPER: One man got two pounds, after being imprisoned for four years.

MR. ILLINGWORTH: Two pounds to take him out of the district, and into some other where he may have a chance of obtaining a living. Members must know it would be utterly futile to admit such a principle as that to which I allude. It would be a farce to offer £2,500 to this company for the wrong that has been done. If we are to assess damages at all, I think even the sum stated in the report of the Select Committee does not approach the amount of injury done. If the company are entitled to anything they are entitled to reinstatement in the property which they have lost. We let them have the property, and some one argued in Committee to-night that the company lost their property through some default of Parliament, some defect in the law, and that the country is responsible and must make good the loss. If that be true, make good the property. Do not offer the company £2,500, but give them back their right, restore the gold which was stolen by men whom you did not prevent from stealing it, and whom your police ought to have prevented from committing the wrong, if you are to say it is a wrong. Do not patch it up with a compensation of £2,500; if there is a wrong let us undo it honestly and fairly. If you are going to take the other position, and go simply into the realm of sentiment and sympathy, and say to the company, "This company has been unfortunate; wrong has been done; we are sorry for the company, and we will vote you £2,500," it will be like voting a sum for a widow or anyone else.

THE PREMIER: You passed a resolution that the company were deserving of consideration.

MR. ILLINGWORTH: Did I vote for it?

THE PREMIER: No one divided the House.

MR. ILLINGWORTH: I did not vote for it; but, supposing I did, what did we pass?

THE PREMIER: A resolution that the company were deserving of consideration.

MR. ILLINGWORTH: We passed a resolution that inquiry should be made whether the company had suffered any wrong at our hands, and then we passed

another resolution that, if the report brought up was correct, the company deserved consideration. Am I arguing anything against that? I am arguing that if they are deserving of consideration they merit full consideration, and that they should have restored to them the mine, and all that has been stolen from it.

**THE PREMIER:** We cannot give all that, you know.

**MR. ILLINGWORTH:** That is exactly where we are landed. The next company that comes along will be in the same position. The Ivanhoe Venture Company is not the only one that suffered under the 10-foot drop.

**A MEMBER:** Yes.

**MR. ILLINGWORTH:** These are not the only set of men who were injured and wronged at that time.

**MR. VOSPER:** We will have a claim from the Peak Hill Company next.

**MR. ILLINGWORTH:** How do we know that we shall not have a claim from the Peak Hill Company for £20,000 or something?

**MR. DOHERTY:** They won their case.

**MR. ILLINGWORTH:** I know that every case must be dealt with so far on its merits; but what I argue is that the Committee should be careful before it establishes as a precedent the principle that a wrong done through our Courts of law is to be remedied in coin, by the country, through Parliament. We should be careful before establishing the precedent that Parliament is to be a Court of appeal to remedy the wrongs and injustice done in our Courts. Are we to take this position? I protest against laying down a precedent, which may be used hereafter, both in the Courts and elsewhere, that Parliament is responsible for loss sustained by individuals through defects in law, or misinterpretation. It would be a most dangerous precedent to place upon the statute book, and if the money proposed is to be paid, I would like it to be understood that it is payment as an act of grace on the part of the Committee, as the Committee feel that wrong has been done, for which Parliament, I maintain, is not responsible and not liable. If we establish that, I have no objection to the vote of £2,500, and much regret that it is not £12,500 instead of £2,500, for £2,500 is no compensation in this case.

**THE PREMIER:** The motion does not say it is compensation.

**MR. ILLINGWORTH:** I would like to have decided, in this debate, the standpoint from which the money is to be paid.

**THE PREMIER:** The Government carry into effect the resolution of the Committee.

**MR. ILLINGWORTH:** That the company deserve consideration?

**THE PREMIER:** Yes; that they deserve consideration.

**MR. ILLINGWORTH:** I made inquiry, and was informed that the money would be distributed among the shareholders.

**MR. GEORGE:** It does not matter what the shareholders do with the money; they can pay their debts.

**MR. VOSPER:** There is no chance of the money being distributed among the shareholders.

**MR. ILLINGWORTH:** I wish it to be distinctly understood that I do not oppose in the smallest degree our endeavouring to do right in all cases and under all circumstances, and at whatever cost.

**A MEMBER:** Will you vote for the motion?

**MR. ILLINGWORTH:** Do not be in such a hurry. Hon. members who come here one night out of three or four, when we are trying to do business—and last night there were 14 members out of 44 present—should not object to a little time being occupied. What I want to be established, before this question goes to the vote, is that this case is not to be considered as a precedent. It is not to be considered as a precedent involving the principle that a man who is aggrieved by some Act passed by Parliament, which works a hardship on him in a Court, whose decision is reversed by the three Judges sitting as a Full Court, can make Parliament responsible for such hardship. Any case that comes before the Committee will have to be accepted on its own merits. I repeat that I have no objection to the Ivanhoe Venture Company having £2,500, but let us understand that we give it to them simply because we feel that a wrong has been done, and we desire to help them a little in their trouble. That is all we want. We must not allow the vote to be taken with any idea that it establishes the principle that an individual or company has a right to come here and say,

"you have passed a law by which I have suffered, and therefore you must give me compensation."

THE MINISTER OF MINES (Hon. H. B. Lefroy): I do not think the Committee desire by any means to establish a precedent in this case, and I am sure the Government have no wish to do so. I would like to remind members that this question was fully debated here last session, when it was really more in the minds of hon. members than it is at the present day. Not only was it debated, but it was submitted to a Select Committee, who presented a report on the subject afterwards. A resolution was brought forward stating that, in the opinion of the Select Committee, some consideration should be given to the company. That, I think, was a direct indication to the Government that it was thought they should offer some consideration in the matter. What consideration can you offer but monetary consideration? I do not think it was ever intended the Government should go to the Ivanhoe Venture Company, and say, "My dear fellows, we are very sorry you have had this great loss. We are extremely sorry for you. We consider you immensely and the House consider you. That is all we can do for you." I believe that when it was said the company deserved some consideration at the hands of the Government, it was distinctly intended they should receive some monetary consideration. Whether sentiment or sympathy was uppermost in the minds of the Committee that sat on the question, I am unable to say, but I do not think it was sympathy that exercised the minds of the Government in regard to the matter. I can assure you the Government had considerable difficulty in considering the question. The Government have not the money to hand over in this sort of way without asking the Committee first to vote it; and the Government did not consider they should at the time grant any money to the company without first ascertaining how much the Committee considered ought to be paid. I would like it to be distinctly understood that this money is not intended to be offered to the company by any means on account of any misinterpretation of the law. The hon. member who has just spoken seemed to imply that this consideration was to be

offered on account of some misinterpretation. I do not think that was ever in the minds of the Committee which reported on the question; but what seemed to be uppermost in the minds of the Committee was, that the Company suffered owing to a bad law which Parliament passed, and which I think the member for Central Murchison was instrumental in passing. It was passed at a time when there were not many members in the House who had a very great knowledge of mining. In fact there were few members at that time who had any knowledge of mining. This clause was introduced and spoken to by a few members who believed they had a considerable knowledge of mining, but apparently, from what has transpired since, they had very little; because I think it has been distinctly admitted, not only here but all over the world, that the existence of a dual title with regard to mining or anything else is a most impossible position. I can assure hon. members that this motion has not been brought forward on account of anything that has happened in our Courts—in the Warden's Court, in the Supreme Court, before a single Judge, or before the Court of Appeal; and when this resolution was passed by the House last session, we had not before us the decision of the Full Court which was given a few weeks ago; consequently it could not have been on that account that the resolution was brought forward. Had that resolution been brought forward at the present moment, that aspect of affairs might have been considered by whoever introduced the motion; but nothing of the sort occurred to the minds of hon. members at that time. It is seldom indeed that a motion submitted to this House meets with such general approval. I trust it will not be necessary for the Government to come down too frequently with motions of this kind.

MR. VOSPER: Not with more than one a week, at all events.

THE MINISTER OF MINES: It is not the fault of the Government, it is not the fault of the administration, that these difficulties arose over the Ivanhoe lease.

MR. LEAKE: Whose fault was it?

MR. VOSPER: The leaseholders', of course.

THE MINISTER OF MINES: It was the fault of a bad law. The Ivanhoe Ven-

ture lease was made the battle-ground for decision as to the law; and I think the mining community, at all events, owes a great debt of gratitude, not only to the Ivanhoe Company, but to all those alluvial miners who have been instrumental in settling this great question.

MR. VOSPER: Do you not think the men ought to be considered?

THE MINISTER OF MINES: They fought a great fight on the Venture lease, which has struck out once and for ever the existence of a dual title in Western Australia.

MR. VOSPER: What consideration is offered to the alluvial men?

THE MINISTER OF MINES: The member for Yilgarn (Mr. Oats) stated, or I believe implied, that had there been a board to inquire into the question of leasing when this lease was granted, possibly no lease would have been given. Well, I know this much, that no board could ever have decided whether there was or was not alluvial in that ground; and I believe that had any board, or any body of miners, or any geologist, been sent to that locality to say whether there was or was not deep alluvial there, they would either have declined to express an opinion, or would have replied in the negative. But had it been thought there was alluvial gold on that lease, or deep alluvial, the ground would never have been leased at all. I can assure hon. members, and I should like the mining community to know, that it is not the intention of the Government to lease alluvial ground; that every care is exercised to prevent such leasing; and, moreover, that care can be exercised perfectly well by the department, without having any board to examine every piece of ground which is the subject of an application for a lease. Who is going to pay for a board to examine every area of which a lease is desired?

MR. ILLINGWORTH: That is done elsewhere: why not here?

THE MINISTER OF MINES: I do not think that in any country a board examines every lease. I know, at all events, that we have very many more leases in this colony than there are in any other part of Australia. I do not think the leaseholders would thank us if we tacked on to their rents, survey fees, and other expenses, the cost of such a board.

I think the law will act very well as it is. At all events, I do my best, as far as I can, to see justice done between the different parties; and it has been my endeavour, and I have exhorted the wardens in every possible way, to ascertain accurately whether alluvial is on ground applied for by intending lessees.

MR. OATS: The wardens cannot tell that.

THE MINISTER OF MINES: Even if you sent a geologist to inspect the ground, he could not tell you what would be found 50 feet or 100 feet below the surface. Geologists are very cautious about things of that sort, and even practical miners are very chary in saying what is in front of the point of the pick. If they are on the gold, they know it is there; but there are not many miners who would say what would be found 50 yards in front of their drive.

MR. ILLINGWORTH: How do you know so much about it?

THE MINISTER OF MINES: Consequently, it is not very easy to know for certain whether alluvial does or does not exist. At all events, if, after a lease has been granted, alluvial gold be discovered, the Government will see that no more land is leased in the immediate vicinity. One point I must emphasise with regard to the Ivanhoe Venture: that gold, which certainly belonged to the company, was taken away. The law has distinctly disclosed the fact that the company were deprived of gold which was lawfully theirs. I should like the public not to run away with the idea that the Government came forward with this motion owing to any misinterpretation of the law. It was simply done owing to the fact that unfortunately this House—the Parliament of the country—passed a law some years ago which was found to be unworkable. That was not done by the Parliament in which we have the honour to sit. I say that for the information of the member for Pilbarra (Mr. Kingsmill), and I believe that, had the hon. member been here at the time, he would have raised his voice against Clause 36. [MR. GEORGE: Hear, hear.] However, we have the good fortune to have the hon. member here now, and I am sure we will try to get all possible benefit from the knowledge he possesses.

MR. ILLINGWORTH: We have another Minister of Mines here, too.

THE MINISTER OF MINES: Oh, he does not know anything. But it was not so much the fault of the administration in the past, as the fault of a bad law, and consequently the Government have simply done in this matter what the House has asked them to do. I should be very glad to know, as the member for Albany (Mr. Leake) has suggested, exactly who will receive this money; and I think it would be a very good thing if we could ascertain that before the money is placed on the Estimates. This House ought to know that; and, unless those who have actually suffered the loss get the money, I do not think hon. members would care to vote it. Finally, I hope that with this incident will end the unfortunate Ivanhoe Venture case; that we will hear no more about it; and that in the future none of those difficulties will arise which have arisen in the past, but that these two great sections of the mining industry may be able to work harmoniously together in the interests of themselves and in the interests of the country.

MR. GEORGE (Murray): I do not wish to traverse what the Minister of Mines has said, except where he has reiterated the statement of the member for Albany (Mr. Leake); and I wish if I can to elicit a little information. The great question for us to consider is: who is going to get this money? and, inferentially, whether it will be the people who suffered, or their creditors. From my point of view, it does not matter to this House whether the shareholders who suffered, or the creditors of those people, are to get the money; for the situation may be that the very payment of the money may help to redress the injustice that has been done by this faulty law, and may perhaps save one or more of the sufferers from actual bankruptcy. Therefore, so far as this House is concerned, I do not see that it matters where the money goes, provided it does some good to the sufferers.

MR. LEAKE (Albany): Whilst we are dealing so lavishly with money that does not belong to us, perhaps it would be as well if I asked the Minister how much, between this and the time the Estimates come before the House, he will allow as compensation to the Hannan's

Proprietary Gold Mine for the trespasses committed by the alluvial men on the Adeline lease, and how much he will allow the Slug Hill Proprietary Company for similar trespasses committed by men there?

THE MINISTER OF MINES: I am not in charge of this motion. You must ask the Council that question.

Question put, and passed on the voices.

Resolution reported, and report to be considered at the next sitting.

## PERMANENT RESERVES BILL.

### SECOND READING.

THE PREMIER (Right Hon. Sir John Forrest), in moving the second reading, said: This is a very important measure, though I do not think it contains controversial matter. The object is to provide that reserves proclaimed by the Governor by powers given under the Health Act, as parks, squares, or otherwise for the embellishment of towns, or for the health, recreation, or amusement of the people, or for cemeteries, shall not, after being gazetted, be sold unless under authority of Act of Parliament. I am sorry to say there is a tendency on the part of the public to get hold of portions of reserves for *quasi*-public purposes. When towns are laid out, the Lands Department are careful to leave a good many reserves for parks, squares, and recreation purposes; and, as soon as the lands open for sale are disposed of, many applications are made for portions of the reserves, with the result that the original intention of the department is frustrated.

MR. GEORGE: By tennis clubs.

THE PREMIER: Squares and open spaces will be much required in the future, and it is felt that no department should be entrusted with the disposal of public reserves. As the law stands, there is nothing to prevent the Government selling the Perth Park or any other piece of land which may have been set apart for public purposes.

MR. GEORGE: Even the City Council can dispose of public lands.

THE PREMIER: No.

MR. GEORGE: The City Council have done so in connection with the Esplanade, in Perth.

THE PREMIER: The City Council have no power to dispose of public reserves.

MR. GEORGE: But the Council have disposed of reserves.

THE PREMIER: The City Council may give a lease of public lands, but cannot dispose of them for any length of time. The Government, on the other hand, can sell reserves, and, by a simple proclamation, withdraw them from public use and give a title to private purchasers. Such a state of things ought certainly not to be allowed; and if this Bill be passed, no public reserve can be diverted from its original purpose, unless by Act of Parliament. In Committee, hon. members may think it advisable to add other lands to those mentioned in the schedule, and that can easily be done.

Question put and passed.

Bill read a second time.

#### ADJOURNMENT.

The House adjourned at 10.38 p.m. until the next Tuesday.

### Legislative Council,

Tuesday, 15th August, 1899.

Paper presented—Question: Albany Harbour (Princess Royal)—Question: York-Greenhills Railway Receipts—Dog Act Amendment Bill, in Committee, new clause, reported—Supreme Court Criminal Sittings Bill, second reading, resumed, Amendment negatived, Division (passed); in Committee, reported—Sale of Liquors Amendment Bill, first reading—Weights and Measures Bill, first reading—Truck Bill, first reading—Adjournment.

THE PRESIDENT took the Chair at 4.30 o'clock, p.m.

PRAYERS.

#### PAPER PRESENTED.

By the COLONIAL SECRETARY: Return re Midland Railway Company.

Ordered to lie on the table.

#### QUESTION—ALBANY HARBOUR (PRINCESS ROYAL).

HON. F. T. CROWDER asked the Colonial Secretary: 1, If the Govern-

ment are aware of orders having been issued to the Harbour Master at Albany instructing him not to take ships drawing 26½ feet and over into Princess Royal Harbour. 2, If so, why was the order issued, seeing that there is a depth of 30 feet of water at the mail steamers' anchorage?

THE COLONIAL SECRETARY replied:—No fresh orders have been given during the last twelve months. I may add that there is a misconception as to the depth of water in Princess Royal Harbour. I have ascertained from the Chief Harbour Master that 30 feet of water are not to be relied on; at most there are 27 feet of water in Princess Royal Harbour. An order has been issued by the Chief Harbour Master that vessels up to 26ft. 6in. draft only are allowed to come into the harbour at present.

HON. F. T. CROWDER: That shows the necessity for another dredge.

#### QUESTION—YORK-GREENHILLS RAILWAY RECEIPTS.

HON. R. S. HAYNES, without notice, asked the Colonial Secretary when the return in reference to the earnings of the York-Greenhills Railway would be ready. It would require a microscope to find the receipts.

THE COLONIAL SECRETARY said he would inquire into the matter.

#### DOG ACT AMENDMENT BILL.

##### IN COMMITTEE.

Consideration resumed from 9th August.

New Clause:

HON. F. T. CROWDER moved that the following new clause be added to the Bill:

The registering officer, on the registration of any dog, shall deliver to the person registering the dog a metal disc of a size, shape, and colour to be prescribed annually, and to be annually varied, on which shall be inscribed the date of the year and the registration number and district of the dog registered. The collar to be worn by a dog shall not be required to bear any inscription, but the disc shall be kept suspended from the collar in such a manner as to be plainly visible; otherwise the dog shall be liable to be destroyed as if unregistered; and the absence of such disc shall be *prima facie* evidence of non-registration.