and paving as will be required where cattle are constantly in yards or sheds. That matter will be left to the discretion of the inspector, who will receive his instructions from and have by-laws provided by the local governing body. I therefore think that the hon. member and others representing rural districts may be perfectly satisfied when they know that the local governing body will be charged with looking after the health of the district. I will not detain the House longer; but I hope that the measure, after investigation by a select committee, will without much alteration meet the views of hon. members. I did not notice any desire for drastic changes on the part of those who criticised the Bill. After second reading, I will move for a select committee.

Question put and passed.

Bill read a second time.

Bill referred to a select committee comprising Mr. Bath, Mr. H. Brown, Mr. Gregory, Mr. Henshaw, with the Colonial Secretary as mover; to report this day fortnight.

ADJOURNMENT.

The House adjourned at 29 minutes past 10 o'clock, until the next day.

Legislative Assembly,

Wednesday, 9th November, 1904.

The SPEAKER took the Chair at 3·30 o'clock, p.m.

PRAYERS.

FINANCIAL STATEMENT, WHEN.

THE PREMIER informed the House that on the next Tuesday he would move, "That the House do now resolve itself into a Committee of Supply to consider the Estimates for the year 1904-5." It had been his intention to move this to-morrow (Thursday); but a number of members having asked him, as they would be unavoidably absent to-morrow, to make a postponement until Tuesday next, he had agreed to do so.

QUESTION—UNIVERSITY ENDOWMENT, PARTICULARS.

MR. WATTS asked the Premier: 1, What area of land, if any, has been granted for the purpose of a University? 2, In what districts is the land situated? 3, Has the certificate of title been issued for such land, and on what date were such grants made? 4, If so, should not Parliamentary sanction have been obtained before granting land for such a purpose? 5, What is the approximate value of the land granted?

THE PREMIER replied: 1, 4,212 acres 0 rood 18 perches have been granted for University endowment. 2, Swan (Claremont, Karakatta, and North Fremantle), Cockburn Sound, Avon (Pingelly), Williams (Cuballing, Narrogin, and Wagin), Kojonup (Katanning and Broomehill), Plantagenet (Mount Barker). 3, Yes. The grants were made in July and August last. 4, "The Land Act 1898" provides for making such grants without Parliamentary sanction. 5, About £133,000.

QUESTION—RAILWAY PREFERENTIAL RATES FOR JARRAH.

MR. BOLTON (for Mr. Henshaw) asked the Minister for Railways: 1, Are preferential rates granted on the carriage of sawn or hewn jarrah from the South-Western Districts to Fremantle? 2, If so, is there any differentiation between the various milling companies, and to what extent?

THE MINISTER FOR RAILWAYS replied: 1, No. 2, No. If the hon. member, however, refers to a rate quoted to Messrs. Millars in November, 1903 (and which runs out on Saturday next), an arrangement for full train loads from

each, Mornington, Wokalup, Yarloop, and Mundijong *for shipment only*, was made of 7s. per ton, and a similar arrangement would have been open to any timber company, the rate varying according to the distance. This arose through a block of shipping at Bunbury.

QUESTION—ELECTRIC LIGHTING, KALGOORLIE AND BOULDER.

MR. HOPKINS asked the Minister for Works: 1, Has application been made for the registration or approval of an agreement between the Kalgoorlie Roads Board of the one part, and the Kalgoorlie Electric Lighting and Power Corporation of the other part, whereby it is proposed to grant to the said Corporation certain concessions to supply power and current within certain portions of the Roads Board District? 2, In view of the Boulder Council having already expended some £20,000 on an electric light plant, and that Kalgoorlie has also undertaken a similar if not greater expenditure, superadded to which is the possibility that the area over which the proposed concession will extend may at an early date come within the boundaries of the municipalities mentioned, will the Minister withhold his approval, pending full inquiry? 3, Will the Minister promise to consult the local bodies interested before giving any consideration to the application when made?

THE MINISTER FOR WORKS replied: 1, No application of the nature mentioned has been received, but the approval of the Minister for Works has been sought under Clause 4 of 3 Edw. VII., No. 9, by the Kalgoorlie Electric Power and Lighting Corporation Limited, to the construction of certain extra lines. 2, and 3, A letter has been written by the Public Works Department requesting farther particulars and that the application should be supported by the local authorities.

BILLS, FIRST READING.

LEGAL PRACTITIONERS ACT AMENDMENT, introduced by the Minister for Mines and Justice.

FACTORIES ACT AMENDMENT, introduced by the Minister for Railways and Labour.

MOTION—HAMEL AND NANGEENAN SETTLEMENTS, INQUIRY.

MR. HAYWARD had given notice of motion, "That a Select Committee be appointed to inquire into the results of the Experimental Settlements at Hamel and Nangeenan, with a view of determining their practical advantage."

THE SPEAKER: The motion was not quite in order in its present form; but as the hon. member proposed making a slight alteration, with the permission of the House in reference to the Nangeenan settlement, the motion would then be in order. The reference to the Nangeenan settlement must be excised, before the motion could be put.

MR. HOPKINS: If a select committee were appointed, the two settlements should be inquired into. There was no reason why only one settlement should be inquired into at the present time. The motion moved by the member for Northam was what might be termed an impracticable motion, because it proposed that the Government should not persist in the Nangeenan settlement.

THE SPEAKER: What was the point of order?

MR. HOPKINS: Preferably, the House should pass the motion of the member for Wellington in its present form.

THE MINISTER FOR WORKS: A committee could be appointed now in reference to the Hamel settlement, and later the matter of the Nangeenan settlement could be referred to the same committee for inquiry.

THE SPEAKER: The motion could not be put in its present form; but the member for Wellington could amend it, with the permission of the House, so as to refer only to Hamel.

MR. HAYWARD: The object was to save time. This question had taken a considerable amount of time already, and a select committee, if appointed, would have to visit both places. If a commencement were made with a committee in reference to Hamel, the same committee could afterwards go into the question of the Nangeenan settlement.

MR. HOPKINS: This motion might be postponed for a week.

THE MINISTER FOR WORKS: The motion could be amended.

THE SPEAKER: The motion could be amended only with the permission of the House.

MR. HAYWARD: What he proposed doing was to strike out the words "and Nangeenan," making the motion apply only to Hamel.

MR. R. G. BURGES moved that the debate be adjourned.

THE SPEAKER: There was no debate.

Form of motion amended by leave.

MOTION, HAMEL SETTLEMENT.

MR. HAYWARD (Wellington): I beg to move the motion as amended. I need not take up the time of the House with any remarks in reference to the matter in view of the discussion which took place last week. It is agreed by both sides that it is advisable to place this matter in the hands of a select committee, therefore I submit the motion to the House.

MR. R. G. BURGES (York): This debate should be adjourned, as there are two or three motions in reference to the matter now pending. The whole question should be thoroughly threshed out and some satisfactory settlement come to, not in regard to Hamel and Nangeenan only but as to the advisability of making some amendment of the land regulations in the direction the late Government have been experimenting in, especially after the depreciatory remarks of the member for Northam, who ought to be the last man in the House to run down the country he represents, but should rather be pushing the country forward in every way. We have in the newspapers a report of a deputation to the present Minister for Lands, asking that this land be let on conditions so as to turn it to account as far out as Southern Cross.

MR. HOPKINS: Much farther out.

MR. BURGES: I am sure if any man has his ears open and reads in the newspapers what is going on, he must be aware what is taking place all over the country.

THE SPEAKER: We are not discussing the Nangeenan question. This question refers only to Hamel.

MR. BURGES: I only hope the House will adjourn the motion, so that when the other motion comes up, also one which will be on the Notice Paper I suppose to-morrow having reference to this, the whole may be amalgamated into one inquiry; and I hope we shall be able to come to some satisfactory conclusion, and arrive at something definite with regard to such settlements all through the country. As we shall have other chances of speaking to this question, it will only be a waste of words to take up the time of the House now. I hope someone will move the adjournment.

THE PREMIER (Hon. H. Daglish): I do not intend to offer any opposition to this motion, and in saying so I want it to be distinctly understood that my desire and the desire of the Government is to see settlements of this description carried out, and carried out successfully. It seems to me there can be no two opinions with regard to the advantages that are offered by them, assuming first of all that the land is suitable, and secondly that the persons who form units in the settlement are likewise suitable. A great deal has been said in various quarters in regard to these settlements. There have been complaints, and there has been likewise the other side of the case. There has been an expression of satisfaction in some quarters, and an expression of dissatisfaction in others. I want it to be distinctly understood that as far as I am concerned in supporting this proposition, I am doing so simply in the interests first of all of the State in order to find out the possibilities of these particular settlements, and secondly in the interests of the settlers. I think it is useless and a waste of money to continue a settlement if there are not the elements of success in the settlement itself, and the sooner we know the exact position the better it will be for the State, and I think likewise, in the long run, for the settlers. I am aware that in some quarters any reference to these settlers, even a reference in the direction of advocating an inquiry, may be supposed to be the result of a desire to discredit the late Minister for Lands.

MR. HOPKINS: They have no chance of doing that.

DR. ELLIS: That is done already.

THE PREMIER: I want personally to state that, as far as I am concerned, I have no desire to do that in any way whatever. I am anxious to see him, as well as any other public man, receive the due reward of any action he takes which conduces to the public welfare. I feel

satisfied that the majority of the members of this House, no matter what side of the House they may sit on, are anxious to give to any of their fellow-members due credit when those members do anything for which they deserve credit, while they may be ready to censure them for that which they think deserving of blame. In regard to this particular question, as I have already said the whole matter hinges on the suitability of the site and the suitability of the settlers. I think it will be wise for us to have such inquiry, and that probably one of the first to welcome that inquiry will be the member for Boulder himself. Without farther remarks I express my willingness to support the motion.

MR. A. J. H. WATTS (Northam): I would just say in regard to this motion that no one would hail with greater delight than myself a proposition that a select committee should be appointed to inquire into these settlements. There is, I venture to say, no member in the House who has a greater desire to see this class of settlement carried on than I have myself. I am thoroughly in accord with the principle of settling people on the land in this manner, and I believe that a select committee should inquire into it. I hope a select committee will be appointed consisting of practical men, practical farmers capable of giving some sort of reasonable decision. I believe that the knowledge gained from an inquiry made by such a select committee will be for the benefit of this State, and for the benefit of the settlers going on to these settlements. As to giving credit to the late Minister for Lands with regard to these and other settlements, I have no wish to detract from any honour which may attach to him in regard to these settlements. At the same time, whether it is in my own electorate or any other electorate, I shall not submit whilst I am in this House to see the public money squandered upon unsuitable settlements, and settlements which can never be satisfactory to the settlers upon those lands. So long as I am here I shall oppose any spending of money without the chance of getting a satisfactory return for that money. I sincerely hope this select committee will be appointed from practical farmers, men who know what they are talking about, and men who will be able to give a judgment upon the matter with some degree of satisfaction to this House.

MR. J. M. HOPKINS (Boulder): There is little danger of the most searching inquiry this House is capable of making bringing any discredit upon the late Minister for Lands. In consequence, I do not resent an inquiry, nor do I take any exception to inquiry; but the Premier has told us statements have been made. Statements are being continuously made, it is true. Some people seem to have plenty of time to make statements, and very little time to improve their land. I had occasion to read to this House last night a letter received from one of those settlements, showing at least from the standpoint of some of those settlers how entirely erroneous are some of the statements made.

MR. NEEDHAM: You never said who wrote it.

MR. HOPKINS: The letter is here, and if the hon. member likes to see it he can do so, and if he reads it he will know who wrote it.

MEMBER: He is a settler, and that is sufficient, I suppose.

MR. HOPKINS: That is quite sufficient; he is a settler, and he wrote it on the authority of others. This letter states that two of the settlers

started to make an outcry about the contract prices, and succeeded in getting a few dupes under false pretences to receive Mr. Watts and bring under his notice their fancied grievances. They approached me on the matter and some others, who declined to have anything to do in the matter, as we are well satisfied with the present conditions under the capable, energetic manager, Mr. Robinson, who is a white man to all the settlers——

MR. WATTS (Northam): I rise to a point of order. The hon. member is discussing the Nangeenan settlement. I presume we are not discussing that at the present time. He is referring to myself in regard to that matter, and I ask if he is in order?

THE SPEAKER: If the hon. member is referring to Nangeenan, he is not in order.

MR. HOPKINS: I should like to know on whose authority the member for Northam makes that statement.

THE SPEAKER: There is no point of order involved.

MR. HOPKINS: Then I understand the hon. member has not risen to a point of order.

THE SPEAKER: If the hon. member (Mr. Hopkins) is referring to the Nangeenan settlement, he is out of order.

MR. HOPKINS: I am not referring to it. I am reading a letter which I have this moment received, and I have not come to the part which indicates the settlement to which it does refer. I have not had time to ascertain that fact. But it is manifestly clear that when a settler makes a statement in writing, the hon. member (Mr. Watts) is most anxious that the public shall not hear the statement.

MR. WATTS (in explanation): In my address to the House on the Nangeenan settlement, I made no statement in reference to the Hamel settlement. The hon. member has referred to an interview with me regarding some settlement; and I say publicly that I have not made any statement as to the Hamel settlement, nor have I been waited on by any of the Hamel settlers.

MR. HOPKINS: I am sure we all freely accept the hon. member's assurance. It is pleasing to get these assurances from him. But it is suggested by some of my correspondents that an endeavour has been made by the hon. member to make political capital out of these settlements. And I may say that one of the settlers has expressed the hope that the hon. member will again visit the settlement, when he will have an opportunity of seeing good land, good work, and a band of contented settlers. Mr. Cadwallader, who writes from Nangeenan, speaks of the settlement which the hon. member visited. Returning to the motion before us, I know that the mover (Mr. Hayward) is not given to making long speeches in the House; consequently I expected him to be brief in his introductory speech. But is it not desirable that when a select committee is moved for, we should have a clear statement, no matter how brief, of what the duties of the committee are to be? The hon. member moves that a select committee be appointed to inquire into the results of the experimental settlement at Hamel, with a view to determining its practical advantage. I ask with all humility, in the presence of the occupants of the Treasury bench, who expected any very great results at this early stage in the progress of the settlement? For my own part, as the man responsible for its establishment, I did not, at the beginning, assume that the control would fall into other hands at so early a date. Had I thought so, probably I should not have made the departure. However, I am dissatisfied with the wording of the motion as it stands, because I am fully alive to the fact that no considerable results can be expected after so brief a period; and I shall move an amendment providing that the select committee inquire into the methods adopted, the progress made, and the prospects of future development. I take it we are interested in the methods introduced, and that, after the committee starts its labours, the motion moved by the member for Northam (Mr. Watts), a motion which means nothing—if it meant anything else, of course it would not have emanated from him—will probably be disposed of; and when it is, I hope the scope of the inquiry will be extended to both settlements. I move as an amendment:

> That all the words after "the," in line 1, be struck out with a view to inserting in lieu: "Methods introduced, the progress made, and the prospect of the future development and success of the Hamel settlement."

Surely none will object to making the motion more comprehensive. The methods introduced are, after all, the only matter of policy involved; and that matter will not be touched if we inquire into the mere results achieved. I take it we are interested in the methods introduced there; and for that reason I move the amendment.

DR. ELLIS: There is no question of the results achieved, but merely the results.

MR. HOPKINS: That is right.

MR. J. L. NANSON (Greenough): I second the amendment.

MR. T. HAYWARD (Bunbury): I supposed there would be no opposition to the motion, else I should have gone more fully into the question, and explained my reasons for moving. I have no personal feeling in the matter. My only object in moving this motion by itself was to save time. As I see little difference between my motion and the amendment, I for one will not oppose the amendment.

THE MINISTER FOR WORKS (Hon. W. D. Johnson): I do not see any great difference between the motion and the amendment; and if the member for Boulder thinks his amendment makes the powers of the committee greater and more comprehensive, then I think the House will have no objection to the amendment. But the hon. member seems to be under the impression that the Government are anxious to demonstrate that the Hamel settlement is a failure. It is rather the other way about. Since the Government took office they have taken a deep interest in that settlement. Personally I have heard much about it, and on two or three occasions deputations from the settlement waited on me and on other Ministers as to different grievances with respect to its administration. In order to form an independent opinion I went to the settlement, rather inclined to think that it was not and could not be made a success. But when I inspected the settlement I reversed my opinion.

MR. HOPKINS: The Minister for Lands (Hon. J. M. Drew) has given a contrary opinion.

THE MINISTER FOR WORKS: Perhaps he did not visit and inspect the settlement as I did. I went through the whole settlement, visited every settler there, and came back satisfied that the ground was good, and that while the general administration could be improved, on the whole the settlement could be made successful. I have previously spoken on this matter, especially in reference to the select committee; and the only desire I have is that the committee shall investigate the question and demonstrate to the House and to the country whether the settlement can or cannot be made a success. I am satisfied that investigation will prove it can. I should like the member for Boulder to realise that the Government are not opposed to the Hamel settlement, but are rather prepared to assist to the utmost of their power in making it prosperous.

MR. F. GILL (Balkatta): No member is more anxious than I for a select committee to inquire into this settlement. I know something of it, having visited it some time ago; but strangely enough, I did not see any of the contented settlers whom the member for Boulder named last night. However, I am satisfied, after hearing him read that letter, that there are some who appear to be contented, and who probably have cause to be contented. At the same time, there are others who need some little assistance; and I believe the inquiry of the select committee will clear up any doubt in the minds of members. Personally I am confident that the settlement can be made a success. The land is good. It may need some little improvement in the way of drainage, etc.; but generally speaking it can be profitably cultivated. To my mind, the idea of the settlement is sound; and I think the member for Boulder deserves praise for its establishment. I am quite content to let the inquiry be held; and am confident that the report, while it may make some suggestions as to relieving certain settlers, will disclose no cause of complaint. Perhaps some of the settlers do attach some blame to the member for Boulder for having brought them there.

MR. HOPKINS: For what can they blame me?

MR. GILL: I do not know; but I am confident the inquiry will clear up the matter, and will be a good thing for the hon. member and the country. The present position is unsatisfactory, because complaints are being made, and while they are people will say that there is cause for complaint. The sooner the matter is settled, the better for all concerned.

DR. ELLIS (Coolgardie): I think the committee will be of great advantage to the State. I cannot understand why the member for Boulder should import so much strong feeling and so much personality into the discussion. The idea of the Hamel settlement and of all settlements of this kind is not exclusively the hon. member's own. Such things have been done before, and are likely to be done again. In these matters it seems to me very foolish to make such an important State departure a personal question. That such settlements cannot be uniform is certain to any person who studies the question, and that we are going to get the right class of settlers straight off the jump is to imagine an impossibility. Some men must be unsuitable, and some suitable for the place. The only thing the State wants to find

out is that its money is not wasted, and that there is a reasonable possibility of men who are suitable to the place making a success of it. I should like to deprecate any personal element coming into these questions. They are questions we wish to look at not from a party point of view, but from the point of view of the advantage to the community as a whole. [MEMBER: A national question.] I do not know whether this is a national question, but it is a State question, one that affects every part of the community, the goldfields just as much as the agricultural districts. I cannot understand why we get so bitter over the matter, or why we should be deluged with letters from irresponsible people making wild and weird statements that can be wholly uncorroborated. Surely we can calmly consider matters impartially where there is no personal feeling in the matter, and can like reasonable men come to a satisfactory conclusion as to what is or what is not advantageous to the State.

Amendment put and passed.

MR. HOPKINS: I have been under the impression that the Government were opposed to the system introduced at Hamel and Nangeenan, and I was in a measure confirmed in that view by the unwarranted statements, as I term them, made by the member for Northam (Mr. Watts).

MR. NEEDHAM: It is not the first false impression you have formed.

MR. HOPKINS: That is so. I had a good opinion of the hon. member once. I was farther confirmed by a statement made by the present Minister for Lands; and I only rise now to express a certain amount of pleasure which I feel in finding that the only Minister who has inquired into the matter and is capable of passing an opinion on the point, the Minister for Works, expresses the same opinion that I hold myself, that the settlement is one that will succeed, and will eventually be enlarged in the interests of that section of the community which has no other prospect of establishing homes in the country if it wishes to do so.

Question (as amended) put and passed.

A select committee appointed, consisting of Mr. Burges, Mr. Gill, Mr. McLarty, Mr. Moran, also Mr. Hayward as mover; with power to call for persons and papers, to sit on days on which the House stands adjourned, and to adjourn from place to place; to report on the 23rd November.

PRIVATE BILL—KALGOORLIE AND BOULDER RACING CLUBS.

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

LOCAL COURTS BILL.

IN COMMITTEE.

MR. BATH in the Chair, the MINISTER FOR MINES AND JUSTICE in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Interpretation:

THE MINISTER: When the Bill was originally drafted, the Attorney General and the Minister for Justice were one and the same person. Since that time other arrangements had been made; and as the administration of the Bill would be carried out by the Minister for Justice, he moved that the following definitions be inserted:—"'Minister' means the responsible Minister of the Crown for the time being charged with the administration of this Act." Also, "'Proclamation' means a proclamation by the Governor published in the *Government Gazettee*."

Amendments passed, and the clause as amended agreed to.

Clauses 4 to 9—agreed to.

Clause 10—Place and times of sittings:

THE MINISTER: The administration of Local Courts was now under the Minister for Justice; and it was proposed that where the words "Attorney General" were used, "Minister" be inserted in lieu.

Amendment passed accordingly.

THE MINISTER: It was intended by the Bill to stop the system by which a magistrate was elected solely for one court or district, and to enable magistrates to sit in any court to which they might be sent. He moved that the word "the" before "magistrate" be struck out and "a" inserted in lieu.

Amendment passed, and the clause as amended agreed to.

Clause 11—agreed to.

Clause 12—Deputy magistrate:

THE MINISTER: The clause provided that where a magistrate could not attend a court in the ordinary way through

illness or absence, he might appoint a justice of the peace or other magistrate to attend in his stead. On second consideration, this seemed to be a dangerous provision, as a magistrate could appoint any justice of the peace to do the particular work without acquainting the Minister. He moved an amendment:—

That in line 5 the words "first mentioned magistrate or of the Attorney General" be struck out, and "Minister" inserted in lieu.

The magistrate would then have to recommend an appointment to the Minister, who could approve of the recommendation by wire.

MR. BURGES: How would this provision work in some country places? A magistrate might be taken ill at the last moment, and the people attending the court, who had to come long distances, would have to return home.

THE COLONIAL SECRETARY: The approval would be by wire.

MR. BURGES: There were not telegraphs at all places.

THE COLONIAL SECRETARY: Yes, where Local Courts were held.

MR. BURGES: Inconvenience would be caused in some outside places. People might have travelled hundreds of miles from out-stations to attend a court, and the magistrate being taken ill they would have to go back and attend in another fortnight or month's time.

THE MINISTER: There was something in the contention of the hon. member; but it was over-stating the case by saying that people came hundreds of miles to attend a court. People might come 5, 10, 15, or 20 miles, and it would be some inconvenience to them if the magistrate was not at the court at the time specified; but were we to consider that Local Courts were of so little importance that any justice of the peace was qualified to preside? If justices were qualified, then the Government were not justified in employing paid magistrates at all. A person must have some qualifications as a magistrate of a Local Court, and these qualifications were not possessed by every justice of the peace. Wherever there were Local Courts, there was telegraphic communication.

MR. BURGES: What about a telegraphic line being broken down for a week at a time?

THE MINISTER: It was not possible to provide for every contingency. There would be less general inconvenience if the amendment were agreed to than if any magistrate could appoint a justice of the peace to sit in a Local Court without acquainting the Minister of the fact. We must remember that in outside districts there were practically no newspapers. It was because he believed we should give the best possible justice to all parts of the State he urged the Committee and the member for York to consent to this amendment.

MR. KEYSER: If the Minister appointed anyone, it would be at the express wish of the magistrate. So why not have the appointment made by the magistrate himself? A magistrate might suddenly be taken ill, and if he were not able to nominate there and then, the court must adjourn until he telegraphed to the Minister and permission was given for some justice of the peace to sit on the bench. The amendment was an utterly ridiculous one.

DR. ELLIS: This was one of the clauses regarding which he had most information given to him as to its being very improper and requiring amendment; not only from the legal fraternity but the magistrates themselves. In the past we had had certain statements that there was collusion in the administration of justice in appointing certain justices to hear certain cases. He would not say there had been collusion, but he was inclined to think there was a certain amount of truth in the rumours.

MR. KEYSER: Had a case ever been cited?

DR. ELLIS was unable to state whether cases had been cited or not, but he was convinced that cases should have been cited. There should be a safeguard by the House against anything which savoured of collusion. Should we give power to a magistrate who did not want to sit himself because he was interested in a case, to appoint any of his friends to hear that case? In districts where there were no newspapers only the people living there would know there was dissatisfaction. He was talking of the early goldfields days, when statements like these were very common, and it was extremely difficult to get magistrates not interested in some of the cases. Justice should

beyond all things be above suspicion. He hoped the Minister would insist on the amendment. Then there was another point which to his mind of itself would be sufficient to justify the amendment. A magistrate could, unless there were an amendment of the clause, go away and leave his duty without the central authority being cognisant of it, whereas if the amendment were passed, when a deputy was suggested the magistrate would have to send to the central department to get the appointment ratified. On this matter there was absolutely no difference of opinion among the select committee, all being agreed it was highly advisable that this alteration should be made.

THE MINISTER: This court was not an ordinary police court but a civil court, and surely the member for Albany did not wish civil actions to be brought before any justice of the peace who happened to be nominated by the magistrate. Every man in the State had a right to get the greatest justice possible. So far as he understood there would be no difficulty except in very rare cases, in the way of a magistrate wiring to Perth to get the authority of the Minister for the appointment of a justice of the peace. Of course in almost every case, if not in every case, the Minister would appoint a justice of the peace nominated by the magistrate. He had great respect for magistrates, but was not going to trust them in every case.

MR. BURGES: In several outside places doctors were magistrates. In a case where a doctor was a presiding magistrate, witnesses might come hundreds of miles, and it might happen that a man some hundreds of miles away from the court had broken his leg or was suffering from a serious illness, and required the services of the doctor. In such a case, which would be the more important, life or delay to do justice just for that moment? Should that man be bound to telegraph to the Minister to get authority for someone else to sit there? He knew justices of the peace who had given up their time in this country and had acted as resident magistrates and presided over these Local Courts. They had always given satisfaction, but the position now was that if these men could get out of it they would never sit on these cases.

DR. ELLIS: We did not want them.

MR. BURGES: Those were the men we did want to administer justice; men who had had experience, who had the respect of the magistrates of those courts, and the respect of the people of those districts. The work of a Local Court magistrate was not easy. There was no analogy between such work in Perth or Fremantle and similar work in outside places; and we must be careful not to cause country people such inconvenience as would result in their submitting to injustice rather than make long and fruitless journeys to the courts. Northern centres were different from goldfields centres, which were always provided with telegraphs and railways.

MR. TROY agreed with the preceding speaker and the member for Albany (Mr. Keyser). Black Range was hundreds of miles from the telegraph wire. The magistrate sat there once a month, with civil and criminal jurisdiction; and people sometimes travelled over 50 miles to court. As to leaving to the Minister the appointment of a temporary magistrate, the Minister would after all appoint the nominee of the resident magistrate. In small localities perhaps only one justice would be found; and in some instances he was a man in whom the entire population had no confidence. Were we to have such men administering justice? The Minister should reconsider the proposal. People in distant localities should receive the same consideration as those in large towns. It was wrong that medical officers should act as resident magistrates. The administration of justice was all-important. The clause should be modified.

MR. RASON: When a Bill was referred to a select committee, the committee's suggestions were usually received with favour; but one could not attach much importance to this recommendation or to the Minister's. The clause passed empowered the Governor to appoint certain persons to take charge of Local Courts. By the clause under consideration, in the illness or the absence of any person so appointed a person recommended by him could be appointed as substitute, or the Attorney General might make an appointment.

The committee recommended striking out "magistrate or the Attorney General" and substituting "the Minister"—a very mischievous recommendation. If the Minister were not to act on local advice, how could he pick out a proper person? On whose recommendation ought he to act? Manifestly on that of the magistrate in charge of the Local Court. The new proposal would lead to needless delay. If the resident magistrate's recommendation were ignored and someone else was appointed, the magistrate would be placed in an invidious position. Most men would take that as a serious slight or possible insult. What guided the select committee in making this recommendation?

MR. MORAN: Evidently the committee were guided by a reluctance to depart from what was an almost universal practice, by depriving the Government of responsibility for important appointments, and delegating responsibility to someone not responsible to Parliament. The preceding speaker argued that the Minister acted rightly in appointing the original magistrate to take charge of the court, but wrongly in appointing the second magistrate. In every case the Minister would act on advice; his duty being to sift the advice he received, and come to a determination.

MR. J. E. HARDWICK: A considerable experience in our small towns led him to believe that the Minister's suggestion was unwise, as it would result in unnecessary delay to litigants when these travelled hundreds of miles to attend a Local Court and found the magistrate absent. Presumably the Minister would accept the recommendation of the sick or absent magistrate; but the Minister might not be in Perth when the recommendation arrived. He might be at Wagin.

MR. HAYWARD: Surely the resident magistrate would not appoint an incompetent substitute. Would it not be better to make provision for two substitutes in the absence of the resident magistrate?

MR. MORAN: In certain small towns it was undeniable that social rings and cliques existed. It was vain to say that the Minister would act in ignorance; for he had full knowledge of every branch of his department, just as the Imperial Government often knew more of Australian affairs than was known in Australia.

MR. NEEDHAM: In the case of the illness or absence of the magistrate, or particularly in the event of a magistrate being interested in any pending action, there would be danger of injustice being done in allowing a magistrate to appoint a justice of the peace to take his place. This point should be watched. The best way out of the difficulty was to leave to the Minister the appointment of a substitute. It was argued that considerable trouble and delay would occur in communicating with the Minister; but the same thing would occur in the event of the sudden illness of a magistrate, who might, for instance, be stricken with paralysis and not be able to speak. If the Minister had intelligence enough to appoint a resident magistrate, surely he would have intelligence enough to appoint someone to act as substitute in the event of the magistrate being ill or incapacitated.

MR. LYNCH: We might empower the resident magistrate to make an appointment subject to the approval of the Minister; but failing an amendment in that direction, the clause was to be preferred to the Minister's amendment, which would create farther delays and exasperation in the administration of the law. It was the practice to consult resident magistrates as to the qualities of persons suggested as justices of the peace; and if it were necessary on all occasions to refer permanent appointments to the resident magistrates, surely it was of less importance to leave to them the appointment of men to act temporarily.

MR. GREGORY: The arguments advanced for the amendment did justice to those who had not been beyond Perth and Fremantle. Litigants might come in from long distances to places like Lawlers and Menzies and find the magistrate sick. Were they to wait until the Minister could appoint somebody to act in the magistrate's place? The Minister could only decide by telegraphing to the warden or resident magistrate, which meant two or three days' delay. In any case the Minister would abide by the recommendation of the warden. By the

clause the Minister could hold the resident magistrate to blame if the magistrate's nomination became subject to criticism.

MR. MORAN: Did Cabinet always appoint those justices a warden recommended?

MR. GREGORY: Decidedly not. Very often the Government found that there was no necessity for making farther appointments, but not necessarily because they did not approve of the recommendations.

MR. MORAN: Government would not accept a resident magistrate's recommendation in the case of a justice of the peace, yet the hon. member was anxious to give a resident magistrate power to appoint another magistrate.

MR. GREGORY: The Bill might require a little amendment, but litigants should not have to await the Minister's decision; and it was quite possible that Minister might be away from his office at the time the necessity for an appointment arose, which would delay litigants in the out-back districts. The clause would give greater satisfaction to those litigants, and would save them delay and expense. In the past magistrates, through giving adjournments without considering litigants, caused the latter considerable expense. For that reason there were many complaints which would be accentuated if the amendment were adopted. The amendment should certainly not be made to apply to out-back districts.

MR. GILL: The clause as it stood was open to abuse if a magistrate felt so disposed; but that evil was not so great as the evil of delay and expense to litigants; and of the two evils he would choose the lesser. The amendment was nothing more than a bit of red-tape. It would mean a purely formal matter of telegraphing a suggestion to the Minister that a certain person should take the place of the magistrate. If the members of the select committee had been Government employees, he (Mr. Gill) could have understood their suggesting the amendment; but he would suggest another bit of red-tape that would answer the purpose much better. The resident magistrate should have the power to appoint someone in his place, and in every instance should send a full report to the Minister stating all the circumstances.

DR. ELLIS: Members were getting away from the importance of the Bill, which contemplated making the administration of justice in Local Courts wider than it was at present. He had the greatest objection to allowing any justice of the peace to decide a case involving £200.

MR. RASON: Where did the Minister come in, then?

DR. ELLIS: We should avoid having justices trying these cases at all. At present if a warden was taken ill and could not hold a court, the litigants were not considered, but at all times another warden took his place. When it came to a magistrate being taken ill, a justice who probably had been very good at selling groceries could take his place and settle cases in which an amount of £250 probably was in dispute. In the Bill much latitude was given to the appointment of justices, and he wished to limit that latitude. He would like to do away with the appointment of justices altogether. If the clause were left as it stood, it placed justices on the same basis as magistrates. The amendment would mean that the appointment of justices would never be made unless the Minister was consulted, and any Minister would be very careful whom he appointed to take a magistrate's position. If it were well known that a magistrate could not sit, and that a certain justice would take his place, persons would have an opportunity of wiring their objections to the Minister. We wished to see justice above suspicion, and giving general satisfaction. At present two justices did not give satisfaction. In his constituency when two justices took the cases, objections were made. No one had authority over a justice who could only be removed from the roll, but a resident magistrate was under a Minister, and if a magistrate did anything wrong, he might lose his position. It was against all the theories of justice for a magistrate to appoint a justice of the peace to take his place. If a magistrate was interested in an action, he could pick the man to decide his own case; for the clause said, "If a magistrate is interested in an action or matter in a court assigned to him, he has the power to appoint another magistrate." If that was not a clear statement that a magistrate had power to appoint a justice

to sit in a court in which he was an interested party, then one did not know what it meant. No one should be placed in such an unfair situation.

THE MINISTER: If he had thought the amendment would cause a large amount of delay in the settlement of cases, he would not have moved it; but it would save a deal of expense, and he advised the Committee to pass it. At present, in the absence of a resident magistrate any two justices might sit. There was no nomination, and what was the result? Our courts were busy with appeals against the decisions of two justices.

MR. RASON: That was a serious statement to make.

THE MINISTER: The courts were kept busy very often with appeals against the decisions of two justices, and that would be done away with if the amendment were carried. The persons who drafted the Bill informed him, after the framing of the clause, that the provision was an unwise one; but he (the Minister) said it was not desirable to make an alteration in the measure, as it would be referred to a select committee. This matter was brought before a select committee, and two of the members of that body had already noted the point and thought that if necessary the Minister, who in the first place nominated the resident magistrate, should agree to the appointment of a substitute. That should be considered just by every man who desired cases to be tried before a competent tribunal. As to civil cases, many of the justices were not competent to deal with them.

DR. ELLIS: Absolutely incompetent.

THE MINISTER would not go so far as the member for Coolgardie, but he would not like to trust a number of justices in the State with such important functions as those provided for by the Bill. In every other State in Australia cases which in this State could be dealt with by magistrates were dealt with by legally trained men. This was the only State in which such cases as those coming under the Bill could be dealt with by untrained men.

[Interjection by MR. MORAN.]

MR. BURGES rose to order. The hon. member (Mr. Moran) should withdraw the statement made.

MR. MORAN: If the hon. member could state what the remark was, it would be withdrawn.

MR. BURGES: The hon. member said that he (Mr. Burges) would sit by himself on the bench.

MR. MORAN: Such a remark was never made by him.

THE MINISTER (resuming): It had been represented that it was a frequent occurrence for people to travel hundreds of miles to attend Local Courts.

MR. NANSON: That happened on the Murchison. From the pastoral districts people came to Northampton to attend the Local Court.

THE MINISTER: In districts where there was a small population scattered over a large area, the percentage of cases was very small, and these people would have to come in to attend a court. It was better for those men in the long run that their cases should be tried by competent qualified men than by an ordinary justice of the peace, and it would be cheaper. On the other hand, if we had a competent person to go all over the State, many of our country towns would not have the opportunity they got now. The member for Menzies recognised that on the goldfields wardens must be men of some experience, and if a warden could not be present and another warden could not take his place temporarily, the registrar might be appointed acting warden. The same principle might be adopted in regard to the law as in regard to the mines. In many instances clerks of courts would be far better able to adjudicate than a large number of justices.

MR. GREGORY: Many of them were not justices, and could not be appointed.

THE MINISTER: In the administration of the Mines Department the hon. member appointed one or two mining registrars because he knew they were particularly good and able men. The same thing could be done, if necessary, in reference to the courts.

MR. GREGORY: What he said was that in the ordinary course of procedure, if this amendment was passed the warden would have to wire to the Minister to make a recommendation, and the Minister would simply carry out the recommendation of the warden, which meant a delay.

MR. MORAN: Why should the Minister simply carry out the recommendation?

MR. GREGORY: Presumably the Minister would do so. He (Mr. Gregory) was talking about out-back districts, and Ministers of the Crown would not know the relative merits of people living in those out-back districts.

THE MINISTER: That, he thought, did not apply in this particular case. Almost every time the Minister would act in accordance with the recommendation of the magistrate, but if a warden had to wire to the Minister it would make him far more careful than he would be if he simply nominated a justice of the peace to sit in court for him. We had a number of doctors who acted as medical officers and magistrates. He was sorry that in some cases those gentlemen had not been appointed primarily on account of their knowledge of law; but on the whole they acted very satisfactorily. However, we should have some check upon them. If this clause were allowed to remain, it should be enacted that a magistrate should send word in every case of what had been done; but that would not really get over the difficulty. If it were necessary that the Minister should appoint a magistrate in the first place, it was just as necessary that the Minister should see that a good man was appointed in an emergency. But for a slight error, this provision would have been in the present Act.

MR. MORAN: It was captious criticism.

MR. RASON; Whether it was captious criticism or not, if the Minister's desire was delay, the amendment would secure it.

THE MINISTER did not desire delay.

MR. RASON: It was admitted that the Minister would invariably accept the recommendation of the magistrate.

MR. MORAN: No; not invariably.

MR. NEEDHAM: The Minister did not say "invariably."

MR. RASON: The Minister admitted that invariably he would accept the recommendation of the magistrate. Then we were told there might be local rings or cliques, and that in order to overcome them the Minister should have power either to accept or reject a recommendation. What could the Minister know about cliques or rings?

MR. SCADDAN: The Minister might get information from someone interested in the case.

MR. RASON: One would hardly think the Minister would be guided by the suggestions of interested parties in cases before the court. The member for Coolgardie suggested the magistrate would nominate someone to take his place in a case in which he himself was actually interested. He (Mr. Rason) refused to believe that any resident magistrate would deliberately appoint a man to take his place in such a case. We were told it was a question of competency. How could the Minister be a judge of competency or whether there was a local clique or ring? The Minister admitted that in 99 cases out of 100 he would accept the recommendation. It was a great deal better that 99 times out of 100 justice should be done without delay and that at the hundredth time there should be some delay with perhaps a chance of not getting justice, than that there should be a great amount of delay on the whole. What had to be done in Local Court civil cases was equity. Therefore it did not require so much a legal mind as a well-balanced mind.

MR. MORAN: If he thought the leader of the Opposition was correct in saying the Minister said that invariably the recommendation of the resident magistrate would be accepted, he (Mr. Moran) would not waste half a second on this amendment. His (Mr. Moran's) standpoint was that numerous cases had occurred in this country where the resident magistrate's recommendation had been promptly refused. That had been done by the very Government to which the two ex-Ministers belonged. Unfortunately for Australia, the appointment of justices of the peace was tinged with a little political patronage. He was not referring to any particular Government. In this case we were dealing with a matter more important than a justice of the peace. We were dealing with a matter of £250.

MR. BURGES: The decision of the Local Court was not final.

MR. MORAN: If possible, there ought to be no appeals.

MR. GREGORY: Would not the wisest thing be to strike out the justices

altogether, because the Minister's knowledge would be so small?

MR. MORAN did not quite agree with the hon. member on that point. Intelligent Governments received a large fund of information through various channels, and were thus fairly cognisant of the character of every justice of the peace.

MR. GREGORY: Would not the amendment throw an unfair responsibility on the Minister?

MR. MORAN: But the Minister was responsible for his every action, and would in ninety-nine cases out of a hundred be guided by the resident magistrate. The hundreth case might be of more importance than the ninety-nine. In troublous times on the goldfields resident magistrates, if permitted, would have gladly appointed substitutes, and these might have been undesirable. The Minister should be responsible for the appointment of a high officer like a resident magistrate or of the proposed *locum tenens*, who would be temporarily a full resident magistrate for Local Court purposes. In most cases the resident magistrate would know of his approaching illness, and would give due notice so that a substitute might be appointed. No Bill could provide against emergencies like battle, murder, and sudden death.

MR. H. BROWN: From the discussion, one would think the Bill was intended to apply solely to the goldfields, the residents of which seemed to have little faith in their justices. In view of that, the Government should follow the South African rule, that all resident magistrates should have some legal training, and should pass what was called a civil service law examination. The clerks of court also should pass that examination, and should then be appointed assistant resident magistrates, to adjudicate in the absence of their chiefs. With such assistants we should not need so many justices as we now had. Members quoted extreme cases. How often would a resident magistrate fall ill or be absent? In nearly every case there would be time to appoint a substitute without delay resulting. There was no need to alter the clause in the Bill. Several speakers admitted that some clerks of court were as well able to conduct cases as were resident magistrates; and the local justices could if they wished have the assistance of these clerks. Not more than half-a-dozen appeals in the year were made to the Supreme Court from Local Court decisions; and of those probably the greater number would be cases stated by the magistrates themselves. No justice, in Perth at least, ran after an appointment to the Local Court, but rather avoided it when possible. Doctors just arrived from Britain, who had probably never sat on the bench, were appointed resident magistrates. Surely scores of experienced justices were as well able as they to preside in Local Courts.

THE MINISTER: Members must recognise that the proposed amendment would not be frequently availed of for appointing a justice of the peace to act in a Local Court. In populous centres the clause was not required; and after the Bill passed a justice would hardly ever sit in Perth courts or in the principal goldfields centres. The clause was intended for outlying places. It would hardly be availed of at Albany, where the resident magistrate would be unlikely to ask that a justice should act as his substitute. True, the recommendation of such magistrate would invariably be acted on, as was reasonable. In many cases the Crown law authorities did not know anything against justices; but there were justices whom no responsible Minister would appoint as substitutes for resident magistrates.

MR. BURGES: Would the resident magistrate be likely to appoint these?

THE MINISTER: Possibly. Some doctors acting as resident magistrates might not be qualified to judge of the fitness of a justice for local court work. The clause would hardly cause delay. Magistrates, when unable to attend, would wire for consent to the appointment of a substitute. All or nearly all resident magistrates were in telegraphic communication with the Minister. A member referred to Black Range; but the local magistrate lived at Lawlers, which had telegraphic communication. For abnormal cases Parliament could not provide. One would not like to provide for all the ingenious suppositions of the member for Albany (Mr. Keyser).

MR. W. J. BUTCHER supported the amendment. Representing an outside constituency, he believed it would not

entail any hardship on litigants. If the resident magistrate found himself unable to adjudicate, he would immediately communicate with the Minister, and would thus relieve himself of a grave responsibility.

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

Ayes	...	...	16
Noes	...	...	18
Majority against	...		2

AYES.	NOES.
Mr. Angwin	Mr. Brown
Mr. Bolton	Mr. Burges
Mr. Butcher	Mr. Carson
Mr. Daglish	Mr. Cowcher
Mr. Ellis	Mr. Diamond
Mr. Hastie	Mr. Gregory
Mr. Heitmann	Mr. Hardwick
Mr. Henshaw	Mr. Harper
Mr. Moran	Mr. Hayward
Mr. Nelson	Mr. Hicks
Mr. Scaddan	Mr. Hopkins
Mr. Taylor	Mr. Isdell
Mr. Thomas	Mr. Layman
Mr. Watts	Mr. McLarty
Mr. F. F. Wilson	Mr. Nanson
Mr. Needham (*Teller*).	Mr. Rason
	Mr. Troy
	Mr. Gordon (*Teller*).

Amendment thus negatived.

MR. GREGORY: There was a general impression that, through carelessness, a magistrate might appoint a *locum tenens* to do the work for him, and that it was necessary the Minister should at all times be cognisant of the actions of a magistrate. He moved an amendment, that the following words be added to the clause:—

Provided that any magistrate failing to attend at any court to perform the duties assigned to him shall forthwith report to the Minister his reasons for such failure to attend.

If the Minister objected to the amendment, it would not be pressed.

THE MINISTER: The amendment was not necessary. Magistrates were now in the habit of doing what the amendment sought they should do. In any case, regulations would meet the case.

Amendment withdrawn.

Clause put as printed, and declared negatived.

A MISUNDERSTANDING.

MR. GREGORY: The clause should be put again, as there was a misunderstanding.

Clause put a second time, and declared negatived.

MR. BURGES: Divide!

THE MINISTER: What was the question?

THE CHAIRMAN: The question was, "That the clause do stand as printed." There was no call for a division.

MR. BURGES: There was a call for a division.

THE CHAIRMAN: No.

MR. BURGES claimed he had called twice.

THE CHAIRMAN: The hon. member did not call for a division when the question was first put.

MR. RASON: There was manifestly an error.

THE CHAIRMAN: When the question was put, no one voted for the Ayes, while several voices voted No. Decision was therefore given that the Noes had it; but no hon. member then called for a division.

MR. BURGES claimed he had called "divide" quite plainly.

THE CHAIRMAN: The hon. member was not heard. As there were no voices for the Ayes, the hon. member was not entitled to call for a division.

RESUMED.

Clause 13—agreed to.

Clause 14—Duties of clerks:

MR. H. BROWN: There was no definition of a warrant. Would this provision allow the clerk of the Local Court to sign a warrant for commitment?

THE MINISTER: The clerk would carry out the instructions of the court and sign warrants in the ordinary way.

MR. H. BROWN: The Bill gave power to the clerk of the Local Court to commit a defaulter to prison. It was a very great power to give a clerk.

THE MINISTER: The clerk signed summonses when they were applied for, and also signed warrants when instructed so to do by the court. The clause differed very little from the section in the present Act.

MR. H. BROWN: Would the Minister give assurance that at present the clerk of the court could sign a warrant committing a man to prison?

THE MINISTER: The Act said that the clerk of the court could sign warrants of execution in the ordinary course of civil jurisdiction. The clerk was simply an officer of the court.

MR. H. BROWN: It would be better to add the words "of execution" after "warrant."

Clause put and passed.

Clauses 15, 16—agreed to.

At 6·30, the CHAIRMAN left the Chair.

At 7·30, Chair resumed.

Clause 17—Bailiff's assistant may act after the death or removal of bailiff:

THE MINISTER moved an amendment:

That in line 3, after "salary," the word "fees" be inserted.

The clause provided that in the event of the bailiff not being able to carry out his duties, an assistant bailiff might be appointed, and the second portion of the clause provided that the assistant should be paid out of the salary or allowances of the bailiff. It was thought that this would cover fees, but in case "allowances" was not interpreted to mean everything, he proposed that "fees" be inserted.

Amendment passed, and the clause as amended agreed to.

Clauses 18 to 23—agreed to.

Clause 24—Remedies against and penalties of bailiffs and other officers for misconduct:

THE MINISTER moved an amendment that the following paragraph be added:—

The Minister may, in his discretion, direct that the clerk, bailiff, or other officer shall be dealt with under the provisions of any Act for the regulation of the public service in force for the time being, and in such case the provisions of this section shall not apply.

At the time the Bill was drafted the Public Service Bill was not in existence, and some of the officers of the court were members of the public service. The amendment provided that if a court official who was a civil servant got into trouble, he might be dealt with in the same way as an ordinary civil servant.

MR. GREGORY: Would this provision relieve an officer guilty of misconduct from being proceeded against under the Police Act or the Criminal Code? The amendment simply gave the Minister power to dismiss an officer from the service. That officer would still be responsible for an action under the Criminal Code.

THE MINISTER: The hon. member was right. There might be some offences which were comparatively trivial, and they could be dealt with under the Public Service Act.

Amendment passed, and the clause as amended agreed to.

Clauses 25 to 28—agreed to.

Clause 29—Appearance may be in person or by a legal practitioner:

MR. BURGES: The latter portion of the clause provided that no person other than a legal practitioner should receive a reward for appearing or acting on behalf of another person. Where there was no solicitor in a district and an agent had to appear for a party in a case, some reasonable charge should be allowed. He did not expect that the agent would be allowed to charge solicitor's fees.

THE MINISTER: This was not an innovation; it had been the law for many years, and he understood it was the law in every other State in the Commonwealth. The main object, he presumed, was that there should not grow up a number of persons who were always to be found about a court offering their services and being able to sue persons for a certain reward. There was no desire to confine all the business of the court to legal hands, and if the member could see a way out of the difficulty he would assist.

MR. BURGES: It could be left to the discretion of the court.

THE MINISTER: At present agents were paid directly or indirectly. The clause only provided that there should not be a legal remedy. He was assured that this was the proper wording to prevent that being done. The system was not generally objected to.

MR. A. J. WILSON moved:

That in lines 3 and 4 the words, "allowed by special leave of the magistrate in any case to appear instead of the party," be struck out.

It seemed to be a most undemocratic principle, that a person who was a party to an action should not have liberty to nominate, in the event of his personal inability to conduct his own case, a person who should defend an action on his behalf. It was true he might nominate or authorise somebody to appear, and that person might ask permission of the magistrate to be allowed to conduct the case on that behalf. He proposed to strike out those words with a

view of inserting after "person" the words "duly authorised by any party to the action." The effect of the amendment would be that a person duly authorised by any party to the action could address the court and cross-examine witnesses. Of course he would propose at a later stage in the same clause to put such person on precisely the same footing as the other more learned limbs of the law, and if such person was entitled to certain fees, the amount allowed ought to be determined by the court itself. It was the invariable rule for a person who thought the amount too large to make an application for the costs to be taxed, and forthwith the clerk of the court attended to the taxation of the costs, and only those amounts which were legally in order were allowed. This was only a matter of a Local Court proceeding, and he did not know that the same argument would hold with like force in the Supreme Court. If this amendment were not passed, a party would either have to appear in person or employ a legal practitioner, or else make application for the special leave of the magistrate to allow some other person to appear and conduct the case. If the clause passed as it stood, even if one got permission from the magistrate and succeeded in winning the action, he would have to pay the person engaged for the services rendered, and he would be unable to recover the expenses incurred from the person who lost the action.

THE MINISTER congratulated the member for Forrest on his versatility. Recently in another matter, the hon. member proposed that all persons who served their time at engineering should have an absolute monopoly of engineering work.

MR. A. J. WILSON rose and contradicted the statement.

THE CHAIRMAN: The hon. member could rise only to a point of order.

MR. A. J. WILSON said he rose to make an explanation.

THE CHAIRMAN: The hon. member could make an explanation only after the member addressing the Chair had finished his speech.

THE MINISTER: Within three weeks of his expression of opinion regarding engineers, the hon. member could look at the question from another point of view. Here in Australia, since we had had any Government at all, it had been a rule that a man was to either conduct his own action, or if he wished an agent to conduct it for him he must ask permission from a magistrate, or else employ a man who was a regular legal practitioner. The member for Forrest, without a moment's notice, without even putting his amendment on the Notice Paper, asked us to change all that, and moved this vital amendment in principle all at once, largely presumably because he knew that a number of people who had no legal training might be able to undercut the ordinary regular practitioner. He (the Minister) did not think the amendment a fair one. If we were to continue in this State to require some evidence of competency from lawyers at all, they should get some particular recognition. The hon. member thought this was not a matter that would come before the Supreme Court. The Local Court, however, was the court most frequently appealed to by the great majority of people, and it was as important for them to have good legal advice as for people in the Supreme Court to have it.

MR. A. J. WILSON: They had their choice.

THE MINISTER: A large number of people were not in a position to make a good choice; they had not the knowledge. If this amendment were passed, people who were not qualified legal practitioners would attend every court and try their best to persuade clients they would be able to do the work at a smaller price than the usual amount. One was surprised that a member posing as a unionist took the first opportunity to break down what was to a large extent one of the chief principles of trades unionism.

MR. A. J. WILSON said he wished to break up the best union in the world.

THE MINISTER: This union, like every other union, probably tried to get all it could. He asked the hon. member not to press the amendment at present, so that every member of the House should have an opportunity of seeing what was coming forward. If the hon. member would withdraw the amendment, he (the Minister) would be happy to arrange for it on recommittal. We could have a discussion first.

MR. A. J. WILSON: The statement which had fallen from the Minister was hardly a correct one when he spoke of his (Mr. Wilson's) versatility, and compared his attitude to-night with that adopted on a previous matter affecting engineers. He did not admit that he had changed his opinion one iota. What he took exception to in that Bill was the granting of a State certificate to a person qualifying him as an engineer, when we were not making provision for people who were competent engineers to have a similar guarantee of their efficiency. That was an entirely different point from the one before the House. He was only too pleased to accept the suggestion of the Minister in regard to this matter. He admitted he had probably sprung this very important amendment on the Committee somewhat inadvertently, but it was not by any means designed. So far as he was personally concerned he hoped the matter would be fully discussed. He asked leave to withdraw the amendment.

MR. GREGORY never thought the hon. member in earnest when he introduced this amendment. He thought the hon. member's desire was to show the country how careful the Labour party were to preserve all the perquisites of the legal profession; and as the Minister had pointed out that this amendment was contrary to the principle of trades unions, we all ought to stand shoulder to shoulder with the Minister to preserve all these perquisites. The only thing he regretted was that the House could not form themselves into a union and preserve some of those perquisites. The clause was, in his opinion, a very fair one.

Amendment withdrawn, and the clause passed.

Clause 30—In personal actions:

MR. CONNOR asked for information regarding the amount.

THE MINISTER: The report of the select committee declared that the Governor-in-Council should have power to increase the jurisdiction of particular magistrates to £250. It was not proposed to amend a clause in the Bill, but to add a new clause at the end.

MR. BURGES: The Minister ought by this time to be able to mention the courts whose jurisdiction would be extended. If not, better report progress. This was one of the most important matters mentioned prior to appointing a select committee; and making provision at the end of the Bill was an extraordinary proceeding. Amend now those clauses which needed amendment.

THE MINISTER: The select committee did not think it wise for the jurisdiction of all Local Courts to exceed £100; hence a new clause was recommended, empowering the Governor to extend the jurisdiction, in special cases, to £250.

MR. GREGORY supported the recommendation of the select committee.

Clause put and passed.

Clauses 31 to 43—agreed to.

Clause 44—Proof of service by bailiff:

THE MINISTER: That summonses should be served solely by a bailiff was often inconvenient; and to permit of appointing policemen assistant bailiffs, he moved an amendment:

That the words "or police officer" be inserted after "bailiff," in line 1.

MR. BURGES: Summonses were sometimes served by laymen.

THE MINISTER: True; but parties who could not serve them personally employed a bailiff.

MR. KEYSER: Why not insert "or other officer?"

THE MINISTER: Especially in cases where it was enacted that service must be made by an officer of the court, it was well to restrict service to bailiffs and police officers.

MR. GREGORY: True. The court had to accept the indorsement of the officer.

Amendment passed, and the clause as amended agreed to.

Clauses 45, 46—agreed to.

Clause 47—Plaintiff may apply to sign judgment:

THE MINISTER: The clause should be struck out. It embodied the Supreme Court procedure; but he was advised that it would lead to much litigation if administered by magistrates. Even experienced Judges were cautious in exercising the power; and if applied to Local Courts, appeals would be frequent. Such power was not given to magistrates in the other States Acts, the New Zealand Act, or the English County Court Act. This was a new proposal taken from Victoria, where it applied to areas under district registrars.

Clause put and negatived.

Clause 48—agreed to.

Clause 49—Notice of special defence:

MR. A. J. WILSON: Hon. members, being all laymen, were entitled to some information from the learned Minister as to the need for prohibiting the alteration of defences and counterclaims without the consent of the plaintiff, unless a prescribed notice of alteration were given to the clerk of the court.

THE MINISTER: In reply to the unlearned member, the clause was plain. It was the existing law here, in Victoria, and in New South Wales, and moreover was the law of common sense. Power to amend a defence should not be given unless the clerk was duly notified by the defendant.

Clause put and passed.

Clauses 50 to 55—agreed to.

Clause 56—Partners:

On motion by the MINISTER, the words "partners who are," in line 5, struck out, and the clause as amended agreed to.

Clause 57—agreed to.

Clause 58—Infants:

THE MINISTER moved an amendment, that all the words after "sue," in line 1, be struck out, and the following inserted in lieu:—

——by his next friend, and defend by a guardian *ad litem*. Provided that any minor may sue in his own name for wages or piecework, or for work or services as a clerk, servant, mechanic, or labourer, in the same manner as if he were of full age. Provided, also, that any minor above the age of eighteen years may sue or be sued without a next friend or guardian, upon any cause of action within the jurisdiction of the court in respect of which he might sue or be sued by next friend or guardian; and judgment may be given in any such action, and such proceedings may be had and taken as if the minor were of the full age of twenty-one years.

In looking over the clause, it seemed to him that it might fairly be liberalised, and finding that the New Zealand Act contained a provision in the direction he thought desirable, he had brought down an amendment in line with that Act. In this State we had a large number of youths from 18 to 21 in business, to whom it might be inconvenient to get parents or guardians to sue in their name. The New Zealand Act provided that persons over 18 years of age could sue for other things besides wages. This amendment provided that persons over 18 could sue in their own name, but persons under 18 could sue only for wages.

Amendment passed, and the clause as amended agreed to.

Clause 59—agreed to.

Clause 60—Splitting demands:

MR. CONNOR: Would this clause interfere with the proposal to extend jurisdiction to £250?

THE MINISTER: According to legal advice there would be no difficulty.

Clause put and passed.

Clause 61—agreed to.

Clause 62—Magistrate may change venue:

MR. CONNOR: Would this clause affect the proposed new clause? A case might be taken from a district where a magistrate possessed extended powers, and be tried in the district of a magistrate who had not the extended powers.

[MR. QUINLAN took the Chair.]

THE MINISTER: A note would be made of the point raised, but it was thought no difficulty would be created. A case would always be tried on the same basis if brought forward from a district where there was extended jurisdiction. Subclause 3, which provided that where an action was brought by an officer of a particular court the magistrate could, at the request of the defendant, order the action to be sent for trial to the nearest court outside that magistrate's district, was copied from the Victorian Act. It seemed to be a wise provision, but the select committee thought it would raise serious difficulties in the North-West where there were great distances between courts. It was thought unwise under the circumstances to change the place of trial especially at the request of clerks, and it was felt that regulations could get over the difficulty. He moved an amendment:

That Subclause 3 be struck out.

Amendment passed, and the clause as amended agreed to.

Clauses 63 to 73—agreed to.

Clause 74—Proceedings when defendant does not appear:

THE MINISTER moved an amendment, that paragraph 1 be struck out and the following inserted in lieu:

If on the return day, or upon an adjournment of the court or of the action, the defendant does not appear, the following

provisions shall apply: (*a.*) If the claim is for a debt or liquidated money demand, on proof of service of the summons judgment may be entered for the plaintiff for the amount of the claim and costs; and (*b.*) In any other case the magistrate may, on proof of service of the summons, proceed to the trial of the action on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended.

Amendment passed.

THE MINISTER farther moved that in line 2 of paragraph 2, after "so," the words "entered or" be inserted.

Amendment passed, and the clause as amended agreed to.

Clauses 75 to 80—agreed to.

Clause 81—Affidavits, before whom sworn:

THE MINISTER: This was another technical amendment. He moved that in line 4, "justice of the peace" be struck out and the word "commissioners" inserted in lieu.

Amendment passed, and the clause as amended agreed to.

Clauses 82, 83, 84—agreed to.

Clause 85—Costs where court has no jurisdiction:

MR. A. J. WILSON: Would the Minister explain this clause, as it seemed to be contradictory.

THE MINISTER: Where the court had no jurisdiction, but a magistrate was empowered to take a case if the parties consented, costs could be awarded.

MR. A. J. WILSON: This seemed to be most illogical. In a case where the court had no jurisdiction the parties to an action could confer jurisdiction on the court. Farthermore, although the court had no jurisdiction, a court had power to award costs to the same extent as if the court had jurisdiction.

THE MINISTER: This might seem absurd to the hon. member, but to a large number of people it was a most vital provision. At present no action could be heard in a Local Court where the amount in dispute was over £100. A plaintiff might sue for £100 and the defendant might put in a counter claim for £150. If objection were taken the court had no jurisdiction, but the parties could consent to allow the matter to be decided by the magistrate. There were many cases of that kind, and if the member for Forrest had lived on the goldfields he would recognise the importance of the clause, no matter how absurd it might seem to him now. The court could not compel parties to attend, but if the parties were agreeable to attend, the case could be dealt with. This provision would save an immense amount of money and labour.

MR. KEYSER remembered a case in which, after the solicitors had addressed the court, it was proved that the court had no jurisdiction. It was only after evidence had been brought forward that the magistrate was able to say that he had no jurisdiction. Up to that point certain costs had been incurred, and the magistrate had to say who should pay the costs.

MR. A. J. WILSON: The Crown ought to pay the costs in such a case.

MR. KEYSER: Certainly not. If the Crown had made a mistake through a magistrate, the parties to the dispute, according to the ruling of the magistrate, should pay the costs.

MR. A. J. WILSON: With all respect to the keen instincts of the Minister, if he would read the clause carefully he might even yet understand it. The clause seemed to be absolutely absurd.

MR. NELSON: The court would have jurisdiction over the costs but not over the case.

MR. A. J. WILSON: That emphasised the absurdity of the provision. If a magistrate decided that the court had no jurisdiction, and if the parties to the action, even admitting that the position taken up by the Minister was correct, that litigants could confer by mutual consent jurisdiction on a court that had no jurisdiction, the position still remained that in the event of the parties not mutually agreeing to this position, although the magistrate had no jurisdiction, he could order the matter to be struck out and award costs, and the costs could be recoverable as if the court had jurisdiction. If a court had no jurisdiction in a matter, the magistrate could order the case to be struck out, and each party to pay his own costs.

THE MINISTER: The self-confidence of the member for Forrest was most remarkable. In hundreds of cases where an appeal was made to the Supreme Court on the ground that magistrates had exceeded their jurisdiction and lawyers were engaged on both sides, both gave contrary opinions; yet the member

for Forrest was able to say before a case was tried that the court had no jurisdiction. In some cases it was apparent that the court had no jurisdiction; but there were dozens of cases in which, until all the evidence was heard, the magistrate was not able to make up his mind as to whether the court had jurisdiction or not, and if he had no jurisdiction the parties would be able to give him jurisdiction so as to get justice. This clause would empower parties to agree that a magistrate should decide the matter, even though he had not jurisdiction. It was a mutual arrangement, and surely no one but the member for Forrest would offer any objection. We had a somewhat similar provision at present. The provision was in operation in Victoria and also he believed in the English County Courts, and if it was necessary in those very small places, it was a thousand times more necessary in this State with such large areas.

MR. A. J. WILSON: It did not follow because this was adopted in conservative Victoria, and equally or more conservative Britain, it would be necessary to adopt it in a democratic country like this. He would like the Minister to explain what would be the position if, in a suit over which the court had no jurisdiction in the ordinary way, and whose jurisdiction had been conferred by the litigants themselves, a disappointed party were to appeal against the decision of that court, on the ground that the court had no jurisdiction.

THE MINISTER: If the parties mutually agreed to give this jurisdiction, surely neither could appeal against it. This was, he repeated, one of the most useful clauses in the Bill, by which people all over the State could empower a magistrate to decide on their cases, even if there was a doubt as to the magistrate's jurisdiction.

MR. NELSON: The clause meant that if the parties consented to their case being heard, the case was not struck out. Supposing one of the litigants did not like the verdict and appealed to the higher court, what clearer evidence would there be of the invalidity of that appeal than the fact that the person appealing had actually consented to abide by the decision of the lower court? [MEMBER: No.] The clause was absolutely clear.

MR. CONNOR wished the Minister to give an explanation as to the schedule of costs.

THE MINISTER: This empowered the court to tax on the ordinary scale.

MR. LYNCH: If this clause were passed, would it be sometimes possible for a magistrate, before making himself acquainted with the substantial merits of the case, to grant costs merely from the preliminary arguments? If such were the case, that was one of the strongest objections to this proposal, and would lead him to believe there was very much in the contention of the member for Forrest.

THE MINISTER: If a party brought forward a case and the magistrate had to declare that he had no jurisdiction, the fault in the first place was that of the plaintiff, and should not the plaintiff be charged with costs? That was done in cases all over the world every day. If a plaintiff had not made out a sufficiently good case, he in the ordinary course had to pay costs.

Clause put and passed.

Clause 86—Costs between solicitor and client:

MR. A. J. WILSON suggested that the word "may" be struck out with a view of inserting "shall." These costs should be taxed by the magistrate.

THE MINISTER thought the hon. member had not considered the consequences of the amendment. If the word "shall" were inserted it would mean that every bill of costs sent in must be taxed before a magistrate, and every time a magistrate had to tax costs the two parties would have to appear before him. Law would thus be made dearer instead of cheaper. He understood the hon. member wished to cheapen law. In the majority of cases the costs were not taxed, but the parties mutually agreed to the scale of costs, money being saved and also time and annoyance to clients.

MR. A. J. WILSON: Supposing a case were taken to the Local Court and one of the parties in the suit applied for the costs to be taxed, would it be mandatory on the magistrate to tax them?

THE MINISTER: A party in a suit could appeal to the clerk of the court and, if not satisfied with the clerk's decision, he could appeal to the magistrate.

Clause put and passed.

Clauses 87 to 100—agreed to.

Clause 101—Plaintiff may claim for rent and mesne profits:

THE MINISTER moved an amendment:

That the words "the last preceding section," line 2, be struck out, and "either of the two last preceding sections" be inserted in lieu.

By an oversight this clause had been inserted before the next following. Could the necessary transposition be effected without a motion?

THE CHAIRMAN: Yes.

Amendment passed, and the clause as amended agreed to.

Clauses 102 to 107—agreed to.

Clause 108—Appeal to the Supreme Court:

THE MINISTER: On the second reading of the Bill, he and most other members discussed the question of extended jurisdiction of Circuit Courts. The select committee now recommended that Circuit Courts should sit at Norseman, Geraldton, Cue, Albany, and Bunbury, occasionally at any rate, as well as at Kalgoorlie, and that a commission be issued to a Supreme Court Judge to take cases in the North-West from time to time, as might be required. Technically this recommendation was not within the scope of the Bill, but was important in view of the clause we were now considering, which provided for appeals in certain cases from the Local Court to the Circuit Court. The committee thought that if Circuit Courts were extended there would be comparatively little inconvenience to litigants in outlying places. To-morrow or next week he would introduce a Bill to amend the present Circuit Courts Act, which empowered the Governor to declare that Circuit Courts might be held at certain places, and that the court must sit quarterly at such places. At some of the places just mentioned it would be neither wise nor necessary to hold quarterly sittings; and if the Governor were given power to determine whether and when a Judge should sit at such places, then the Judge could go there occasionally. It was now impossible to establish Circuit Courts at any of these places, unless we knew that there would be work for a Judge to do every three months. After the necessary amendment to the law, the matter would be taken in hand at the earliest.

MR. KEYSER protested against the clause, which entitled an unsuccessful party to appeal to the Supreme Court against a verdict for £20. This amount was too low. In a dispute between employer and employee the employer might appeal, and the employee might be unable to incur the cost of defending the appeal. Even if he were willing to go to the Supreme Court he must deposit at least £30 before the hearing. The minimum should be a substantial amount—£50 or £100; and instead of £30, a deposit of £5 with some other security should suffice.

MR. A. J. WILSON supported the preceding speaker. We should as far as possible discourage appeals to superior courts. While the minimum was as low as £20, another subclause provided that any party dissatisfied with the judgment might by leave of the court appeal in any case. We ought to raise the minimum; and if we did there was ample protection in the subclause. Any person could by leave appeal, whatever the amount of the judgment; and this provision was evidently inserted with a view to test cases in which important legal points might be involved.

[MR. BATH took the Chair.]

MR. NELSON supported the last speaker. The minimum ought to be £50. While agreeing with the opinion of the member for Albany (Mr. Keyser), one could not indorse his methods; for, instead of moving an amendment, he entered a protest. An addendum to the clause to the effect that the member for Albany protested against it would not look well. As to appeals, the poorer litigant was now at a disadvantage; but a very poor man was not likely to owe anyone £50, as he could hardly get credit for that amount. He moved an amendment:

That in line 4 the word "twenty" be struck out and "fifty" inserted in lieu.

THE MINISTER: Members appeared to have a high opinion of our magistrates, to ask that they should be endowed with powers that no magistrate had in any other Australian State, and that no County Court Judge in Great Britain had. Members appeared to think it very easy to give power to magistrates in all

cases to determine cases up to £50 subject to no appeal.

MR. KEYSER: The incompetent magistrate could be removed.

THE MINISTER: One could not decide right off on a magistrate's competency in the hon. member's free and easy style.

MR. NELSON: The same crime was committed up to £50.

THE MINISTER: It was not a crime. The larger the amount the more important the decision. The proper thing was to have an appeal in every case, but that would be obviously absurd. We must make a beginning somewhere. The point was where to make the beginning. The hon. member proposed that there should be no appeal for a case involving £49 19s. but that there should be an appeal in a case involving £50 2s.

MR. KEYSER: The Minister was splitting straws.

THE MINISTER: This was a revolutionary proposal. It would not be wise to entrust all magistrates with the power to determine cases up to £50 without appeal.

MR. BOLTON: The Minister had a poor opinion of our magistrates.

THE MINISTER: We could not assume that our magistrates were better magistrates than those of other places. Other States did not think magistrates should be entrusted with determining cases up to £50 without appeal; and we should not start out on our own, having magistrates without proper legal training. He opposed the amendment.

MR. KEYSER: It was not a question of the competency of the magistrate, but a question of the financial ability of litigants. It would be a tax on a poor litigant to cause him to go to the Supreme Court, not wishing it nor possessing the financial ability to go to that Court. The Minister advanced no reason in opposition to the amendment.

THE MINISTER: The select committee suggested there should be an extension of the present system of Circuit Courts, and that there should be a Circuit Court at Albany, which would mean that litigants in the Local Court would have their appeals heard in Albany; and there would be no difficulty in allowing appeals below £50. There might be hardship in some cases if litigants had to come to Perth.

MR. NANSON: The persons who benefited through appeals on small sums were usually lawyers. It was a kindness to refuse the right of appeal in cases involving amounts under £50, because the probabilities were that the costs which were not paid by the unsuccessful suitor would amount to the judgment claimed.

Amendment put and a division taken.

[After tellers were appointed, Mr. Moran, seated with the Ayes, crossed the gangway and sat with the Noes.]

THE CHAIRMAN: The hon. member must not cross the floor.

MR. MORAN claimed to have moved to the seat he intended to occupy during the division. He had previously crossed the floor to talk to the member for Dundas, who was voting with the Ayes.

THE CHAIRMAN: No hon. member could cross the floor of the House after tellers were appointed.

[Mr. Moran returned to a seat with the Ayes.]

MR. THOMAS: The Standing Orders provided that before tellers were appointed every member should, as far as possible, take his seat; but the member for Cue (Mr. Heitmann) was standing in the gangway after tellers were appointed.

THE CHAIRMAN: The member for Cue not having been seen by him in the position stated by the member for Dundas was in his place sufficiently for the purposes of the division.

Division resulted as follows:—

Ayes	...	...	...	20
Noes	...	...	...	21
Majority against			...	1

AYES.	NOES.
Mr. Bolton	Mr. Angwin
Mr. Brown	Mr. Burges
Mr. Butcher	Mr. Cowcher
Mr. Carson	Mr. Daglish
Mr. Connor	Mr. Ellis
Mr. Gordon	Mr. Harper
Mr. Gregory	Mr. Hastie
Mr. Hardwick	Mr. Hayward
Mr. Hopkins	Mr. Heitmann
Mr. Keyser	Mr. Holman
Mr. Layman	Mr. Horan
Mr. Moran	Mr. Isdell
Mr. Nanson	Mr. Johnson
Mr. Needham	Mr. Lynch
Mr. Nelson	Mr. McLarty
Mr. Rason	Mr. Quinlan
Mr. Thomas	Mr. Scaddan
Mr. A. J. Wilson	Mr. Taylor
Mr. Frank Wilson	Mr. Troy
Mr. Diamond (*Teller*).	Mr. Watts
	Mr. Gill (*Teller*)

Amendment thus negatived.

MR. KEYSER: Could an amendment be moved to insert "forty pounds?"

THE CHAIRMAN: No. An amendment to strike out the words "twenty pounds" had been defeated.

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

Ayes	...	...	38
Noes	...	...	3
Majority for	...	...	35

AYES.	NOES.
Mr. Angwin	Mr. Needham
Mr. Bolton	Mr. Thomas
Mr. Brown	Mr. Keyser (*Teller*).
Mr. Burges	
Mr. Butcher	
Mr. Carson	
Mr. Connor	
Mr. Cowcher	
Mr. Daglish	
Mr. Diamond	
Mr. Ellis	
Mr. Gordon	
Mr. Gregory	
Mr. Hardwick	
Mr. Harper	
Mr. Hastie	
Mr. Hayward	
Mr. Heitmann	
Mr. Holman	
Mr. Hopkins	
Mr. Horan	
Mr. Isdell	
Mr. Johnson	
Mr. Layman	
Mr. Lynch	
Mr. McLarty	
Mr. Moran	
Mr. Nanson	
Mr. Nelson	
Mr. Quinlan	
Mr. Rason	
Mr. Scaddan	
Mr. Taylor	
Mr. Troy	
Mr. Watts	
Mr. A. J. Wilson	
Mr. Frank Wilson	
Mr. Gill (*Teller*).	

Clause thus passed as printed.

Clauses 109 to 112—agreed to.

Clause 113—Parties may agree not to appeal:

MR. A. J. WILSON: This clause would apply where the court had no no jurisdiction and litigants agreed to the Judge exercising jurisdiction, in which case the parties could execute an agreement in writing to that effect.

THE MINISTER: Certainly. This clause provided for cases where there was no appeal, and where the parties agreed not to appeal.

Clause put and passed.

Clauses 114 to 124—agreed to.

Clause 125—Clerk to execute conveyance or transfer:

MR. H. BROWN: After a recent action in the Supreme Court in which there was a refusal on the part of a clerk to execute a transfer, would the Minister tell the Committee how the clerk could be compelled to execute a transfer. At the present time there was no power unless there was a duplicate certificate. This decision had been upheld by the Supreme Court.

THE PREMIER: This clause was entirely different from the clause in the Municipal Act. There had been continual operations of the description contemplated by the clause carried on without any legal difficulty arising. But as regards the difficulty the hon. member referred to as occuring in connection with a sale under the powers of the Municipal Act or under the Roads Act or under the Water Supply Acts, all containing precisely similar conditions, the decision of the Supreme Court had simply forced on the Government the knowledge of the necessity that prevailed for making the Land Transfer Act more definite in the powers it conferred or the obligations it imposed in this class of case. If this clause was governed by the same conditions that applied to a case under the Municipal Act or the Roads Act or the Water Supply Acts, then the same amendment of the Land Transfer Act would cover them all. A Bill had already been prepared and was now in print dealing with the question, and would be submitted to Parliament in a few days, so that members might rest assured there would be machinery to carry out the provisions of the clause.

Clause put and passed.

Clause 126—agreed to.

Clause 127—Bailiff may seize goods:

THE MINISTER: The second portion of the clause provided that wearing apparel, bedding, and tools or implements of trade up to £5 should be protected from seizure. He moved:

That in line seven the word £5 be struck out and £10 inserted in lieu.

Five pounds was a small amount, even if it had been allowed up to the present time. He had made inquiries and found that in New Zealand, Queensland, New South Wales, and Victoria the sum of £10 was the limit, but in Tasmania, South Australia, and Western Australia £5 was the sum. Under the circumstances we might take the more liberal figure.

MR. A. J. WILSON: The £10 limit was utterly inadequate. Take the tools of trade of a carpenter, artisan, or mechanic: such kits were worth considerably more than £10. Some went as high as £25, and in the case of cabinetmakers their tools of trade were worth from £50 to £60. For too long in this and every other country in the world the execution against tools of trade and wearing apparel had been altogether too much in favour of landlords and people who levied on these goods. This amount should not be increased to £10 but even to £25 as far as tools of trade, wearing apparel, and household effects were concerned. Take the case of a widow who had a family to maintain; probably she earned her living by taking in sewing, having a sewing machine which was valued at from £10 to £14, and probably she had a mangle. Even assuming she had no other tools of trade than this sewing machine valued at from £10 to £14, there would be a few sticks of furniture in the house worth say £5 to £10; so very little wearing apparel would bring the total up to £25. He was in favour of inserting an even larger sum than that mentioned by the Minister. He now gave notice of his intention to move an amendment.

MR. NELSON: In Queensland, where the amount was £10, the purchasing power of money was considerably greater than in some parts of Western Australia. That would justify us in raising the sum. Even if a woman did not carry on any business with her sewing machine, such machine, particularly to a widow, was a very important factor in keeping her children in decent clothes. It was our duty to show an example to the whole of Australia, and it would be better to make the amount £25, to which he believed the House would agree almost unanimously.

Mr. NEEDHAM would go farther than £25. The value of some kits of tools went as high as £40 or £50. Persons might get into misfortune from circumstances entirely beyond their control, despite the fact that they had been thrifty; and if they desired to extricate themselves from those difficulties, the only means of doing so would be by utilising the tools of their trade. Notwithstanding the honest desire of such people, this Act and other Acts entitled creditors to seize those things which would enable debts to be paid.

MR. GREGORY: We ought to be particularly careful in this matter, otherwise we might injure those whom we desired to assist. If we raised the sum too high, we might find the credit to poor people almost stopped. He suggested the amount should be £15 or £20. The matter was worthy of consideration on recommittal. It was desirable to make clear that the household furniture and utensils to a certain value should be protected, also tools of trade to a certain value.

MR. SCADDAN suggested the advisability of striking out the word "implements," also the words "to the value of £5 in the whole." He did not see the necessity for placing any particular value upon the articles. Tools of trade and bedding should be exempted from seizure. Machines used in agriculture, also those used by a large contractor, were implements.

MR. GREGORY: A man's tools might be worth £100.

MR. BOLTON moved an amendment on the amendment:

> That "£10" be struck out, and "£20" inserted in lieu.

To specify a sum sufficient to cover the worth of a fairly decent kit of tools would be better than exempting tools entirely from seizure. There was a possibility of mortgaging furniture to increase the value of tools, which might be brought up to £50 or £60; and if tools were entirely exempt from seizure, and if the furniture had been previously mortgaged to increase the value of the working tools, a debtor would still be exempt from a bailiff. It was necessary to look at the matter from both sides. A decent sewing machine was worth at least £12 to-day. That did not allow anything for wearing apparel or bedding. He trusted the Minister would see his way to make the amount £20 as a fair compromise.

MR. NEEDHAM: The Minister should recommit the clause. As to exempting implements of trade, we were not simply legislating for one class of the community, the poorer class. The interests of persons to whom the poor owed money had to be considered, because if one seized tools or implements of trade he

might not realise half the sum owing to him. Still, if the tools and implements of trade were left to the debtor, that person might, in a very short time, be able to pay back pound for pound and get himself out of the trouble, with justice to both sides.

MR. H. BROWN: We were probably over-legislating in regard to this clause. He was certain that if a debtor knew that execution was being issued, there would be very few tools a creditor could distrain on. We were now legislating for sums up to £250, and "implement" would apply to an implement on a farm. Wearing apparel and bedding should be exempt, also tools to the extent of £20 in the trade in which the debtor was working.

MR. SCADDAN: Tools might be worth a large amount. It would be well to exempt wearing apparel and bedding, also tools up to the value of £15 or £20.

MR. GREGORY: Wearing apparel could not be exempted.

THE MINISTER: There was no great disagreement among members. Personally he would prefer a limit of £20; but trifling with this economic question was a serious matter, and would not be effective. If the limit were £20, £30, or £50, large numbers of people would be unable to get credit; and if they were in absolute need of money, they must pawn wearing apparel and to some extent even bedding. A low limit might compel many to pawn articles in respect of which they could not get credit. People ought not to be allowed to buy inordinate quantities of wearing apparel with money provided by their creditors. In Queensland, New South Wales, and Victoria the limit was £10; in South Australia, and during the golden age of this State, £5; and not much harm was done. An amendment of the kind indicated by the member for Menzies would meet the case. Better pass the clause, and a suitable amendment would be drafted against recommittal. In most cases a fair limit would be £20.

Amendment withdrawn, and the clause passed.

Clause 128—agreed to.

Clause 129—When goods taken in execution may be sold:

MR. A. J. WILSON: Would the Minister agree to seven days instead of five elapsing between seizure and sale?

THE MINISTER: A seven-days interval would mean a bigger tax on the debtor. Five days was the law in Victoria.

MR. A. J. WILSON: By a subsequent provision the owner might demand that the goods be sold sooner.

THE PREMIER: Had the hon. member experienced any hardship from the operation of this provision, which had been law for some years? The object was to protect the debtor against a hurried sale, and to protect any claimant other than the creditor who seized. The five-days interval worked well elsewhere and well here.

Clause put and passed.

Progress reported, and leave given to sit again.

NOXIOUS WEEDS ACT AMENDMENT BILL.

SECOND READING.

THE PREMIER (Hon. H. Daglish): I move the second reading of this Bill to amend the Noxious Weeds Act. I do not think it necessary to make a speech. In certain points the existing Act has been found defective; and for that reason, to improve the machinery, the Bill is introduced.

MR. BURGES: What clauses are defective in the Act of 1900?

THE PREMIER: A recent ruling of the Speaker prevents my discussing individual clauses, or I should be happy to answer the hon. member. I shall give him that information in Committee. As I do not think it likely that members will discuss the Bill on the second reading, and as every opportunity will be afforded them in Committee, I shall content myself by moving that the Bill be now read a second time.

MR. H. GREGORY (Menzies): As I understand that the Committee stage is not to be reached to-night, and that members wish to deal with the Bill in Committee rather than on the second reading, I shall not object to passing the motion immediately.

MR. F. CONNOR (Kimberley): I do object to passing the second reading till we know some of the provisions of the Bill. Firstly, is it suggested that any alteration should be made in the schedule setting forth noxious weeds? I

believe the Bill proposes to include poison plants as noxious. If so, the Government are undertaking a big contract; because one of the clauses provides that noxious weeds are to be cleared by the Government for a space of one mile on every side of any settlement or cultivation.

THE PREMIER: May be cleared.

MR. CONNOR: Shall be cleared. Is it intended that the Bill shall apply exclusively to what were previously known as noxious weeds? If it is to apply to the various kinds of poison plants—and I do not think it is much good unless it applies to them—I should like to warn the Government that they are undertaking work they do not understand. I welcome the Bill, even if it does include all poison plants as noxious weeds. They ought to be included. The interpretation clause provides for the inclusion of anything that an inspector may say is a noxious weed. Before the Bill is passed, I should like to know at least what weeds are now considered noxious. I am not antagonistic to the Bill, but I think it would be better if the Minister in charge would have the debate adjourned in order to bring down information on the point. It is a big subject.

THE PREMIER: We can deal with it in Committee.

MR. CONNOR: I offer information as a suggestion coming from one who has lately had some experience in this connection. As a matter of fact, to carry out this Bill as some people think it is to be carried out would cost hundreds of thousands of pounds, and then we could not have the work of the eradication of noxious weeds carried out. I do not wish to appear as obstructing, but I offer a suggestion which is worthy of consideration, that the debate be adjourned and a definition of "noxious weeds" be brought down.

MR. R. G. BURGES (York): We can fight that matter out in Committee. It must be within the knowledge of anyone knowing the country that it is necessary to have a Bill of this sort to keep down noxious weeds in certain places; but the Government are taking on a very big order. Without going into the question of poison plants at all and dealing with noxious weeds alone, it would be impossible to have complete eradication. One of the late secretaries of agriculture tried it and put on men at 9s. a day, but found it impossible to eradicate stinkwort in some places. It is, however, absolutely necessary to have such a Bill as this, and to have the power placed in the hands of the Minister.

MR. SCADDAN: What noxious weeds are there?

MR. BURGES: Stinkwort for one could be eradicated, if taken in time.

MR. CONNOR: And Chinese grass.

MR. BURGES: One might as well try to do away with flies as try to do away with Chinese or Japanese grass and Guildford rush. Stinkwort could be kept out of the Eastern Districts without any trouble, and out of the districts to the south along the Great Southern Railway. The existing Act places the power in the hands of roads boards; but in that respect it is useless. The power should be in the hands of the Minister, and the work of eradication should be carried out by a man with common sense. There would be an outcry if the power were left in the hands of the persons who have held it hitherto. Stinkwort is a nuisance to agriculturists, and one man by neglecting to clear his small area might allow the weed to spread over the whole country and ruin people. I support the second reading of this Bill. It is necessary in the interests of the people who will try to keep their lands clear of noxious weeds, and necessary to assist them in that endeavour, though it is almost impossible to eradicate some weeds. Contentious matter can be dealt with in Committee, but we must compel careless people to clear their lands of noxious weeds, for weeds may spread from a small neglected area over a whole district.

MR. J. L. NANSON (Greenough): I think this Bill is to be welcomed, if only for the fact that it provides for the clearing of Crown lands of noxious weeds when these lands are within a mile of cultivated areas. In the past I have known of hardships caused to private owners who were compelled to clear lands, while on waste lands of the Crown near by the weeds multiplied at a fast rate.

MR. CONNOR: That exists at present.

MR. NANSON: Authority was not sufficient in the past to prevent abuse arising. If there was any law to prevent it, it was not in force. There is a clause

in this Bill providing that power should be given in the direction I have indicated; and I hope the abuse of the past will not exist in the future. As to the definition of a noxious weed, it is apparent that the whole success of the Bill practically depends upon the advisory board attached to the Department of Agriculture. I cannot believe that the advisory board, as it is composed of practical men, would dream of gazetting certain poison plants in certain districts as noxious weeds, because in some parts of this country there is land so thickly infested with poison that the only way of dealing with it is, not to attempt to clear it in parts where practically the whole vegetation is poison, but to fence it against stock so that stock cannot reach the poison. The land is of such a nature that it cannot be dealt with in any way, because, even if cleared of poison, it would be of very little good for any purpose. These matters no doubt will be discussed in Committee, and I do not see why we should not proceed to pass the second reading, believing that the measure constitutes an improvement on legislation in force at present.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned, at 25 minutes past 10 o'clock, until the next afternoon.

Legislative Assembly.

Thursday, 10th November, 1904.

THE SPEAKER took the Chair at 3·30 o'clock, p.m.

PRAYERS.

QUESTION—RAILWAY ENGINE SPARKS, COLLIE COAL.

MR. R. G. BURGES asked the Minister for Railways:—1, Does the Government buy Collie coal for use in the locomotives on the Great Southern and Eastern Railways at the present time? 2, If so, when does the Government intend to give instructions to stop the use of same on the said lines, running through the farming and grazing districts?

THE MINISTER FOR RAILWAYS replied: 1, Eastern Railway: Yes. Great Southern Railway: Spencer's Brook to Wagin, 20 per cent., Newcastle, 80 per cent. Collie; from Wagin to Albany, all Newcastle. Every care is taken to avoid sparks and fires. The Department is, however, hampered by "The Bush Fires Act." 2, The use of Collie coal needs no comment from the Department, and is *sub judice* at the present moment.

QUESTION—RAILWAY INSPECTORS, HOW APPOINTED.

MESSRS. GATHERER AND GREGG.

MR. A. J. WILSON asked the Minister for Railways: 1, Had Messrs. Gatherer and Gregg any previous service in the Railway Department of this State before being appointed inspectors in the department? 2, If vacancies existed, were there no competent officers already in the department who could have been appointed? 3, If so, why they were not given preference?

THE MINISTER FOR RAILWAYS replied: 1, Mr. Gatherer is a railway