

end of the year? Those officers who made the statements to Mr. Atkins, which had been referred to, were in his opinion justified. He believed the Railway Department had a big grievance against political influence. It was of no use to advocate non-political influence on the one hand, and then turn round and say the Minister should have control of the men, of the construction, and of everything else. He could not support the motion of the member for Sussex (Mr. Yelverton) as it stood, but the former part of it met with his approval. He did not think that the portion relating to conduct boards would be workable. Perhaps the hon. member would see fit to withdraw the amendment in favour of another, or allow it to be altered. The sooner we got away from political influence, and had our railways placed in the hands of some person who realised that Parliament looked to him for the sole and proper control of them, the sooner should we have a large financial concern like this in proper working order.

MR. PURKISS moved that progress be reported.

Motion (progress) put, and a division taken with the following result:—

Ayes	...	...	23
Noes	...	...	13

Majority for ... 10

AYES.	NOES.
Mr. Atkins	Mr. Butcher
Mr. Daglish	Mr. Hassell
Mr. Diamond	Mr. Jacoby
Mr. Ewing	Mr. Morgans
Mr. Gordon	Mr. Nanson
Mr. Gregory	Mr. O'Connor
Mr. Hastie	Mr. Pigott
Mr. Hayward	Mr. Quinlan
Mr. Higham	Mr. Stone
Mr. Holman	Mr. Throssell
Mr. Hutchinson	Mr. Wallace
Mr. Illingworth	Mr. Yelverton
Mr. James	Mr. Moran (Teller).
Mr. Johnson	
Mr. Kingsmill	
Mr. McDonald	
Mr. Monger	
Mr. Purkiss	
Mr. Rason	
Mr. Reid	
Mr. Reside	
Mr. Taylor	
Mr. Holmes (Teller).	

Motion thus passed.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 10:38 o'clock, until the next Tuesday.

Legislative Council.

Tuesday, 9th September, 1902.

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THE PRESIDENT took the Chair at 4:30 o'clock, p.m.

PRAYERS.

PETITION—CHILDREN'S CONVALESCENT HOME BILL.

The Standing Orders having been suspended, the HON. G. RANDALL presented a petition signed by 236 residents of Cottesloe, praying that the Bill granting lot 70, Cottesloe, to the promoters of the Cottage-by-the-Sea, be passed.

Petition received and read.

PAPER PRESENTED.

By THE MINISTER FOR LANDS: Report of Commissioner of Police, 1901-2.

Ordered: To lie on the table.

PUBLIC SERVICE ACT AMENDMENT BILL.

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

PUBLIC NOTARIES BILL.

Read a third time, and passed.

CHILDREN'S CONVALESCENT HOME BILL.

SECOND READING—AMENDMENT.

Debate resumed from the 2nd September.

HON. W. T. LOTON: In moving the adjournment of the debate, my desire was to allow the Government and the opponents of the measure time to arrive at some satisfactory arrangement with regard to an interchange of blocks, so that the Bill before the House might be agreed to. I shall not take up much of the time of hon. members, because this matter has already been fully debated.

In the first place, I wish to express my regret that I moved the adjournment of the debate at all, for the reason that we are now only at the second reading stage. An amendment has been moved to the motion for the second reading, that the Bill be read a second time this day six months; but the mere fact of our passing the second reading, especially after the expressions of opinion given by various hon. members in opposition to the site proposed, does not commit the House to the site in question. I regret, therefore, that I did not take the course of asking hon. members to pass the second reading and get into Committee, since by such a proceeding time would have been saved. I hope that whatever course of action may be eventually decided upon, we are all agreed on this point, that a piece of land shall be granted for the purpose in view.

HON. A. G. JENKINS: No one opposes that.

HON. W. T. LOTON: There is no difference of opinion on that point, then; and, since we are all agreed on it, let us pass the second reading, and so agree to the principle of the Bill. I hope the House will do this, since by doing so we pledge ourselves only to the affirmation that some piece of land shall be granted for this particular purpose of establishing the Cottage-by-the-Sea. I was not present to hear, and I have not read the report of, the earlier debate on this question; but on the last occasion when the measure was before the House I heard certain expressions of opinion in opposition to the site proposed. I failed to gather from those expressions of opinion one single really valid objection to the particular lot of land intended to be set aside for the purposes of the Cottage-by-the-Sea. It appears to me that the objections raised are of a merely sentimental nature. The institution can do no injury whatever to the owners or the property in the neighbourhood.

HON. A. G. JENKINS: That is a matter of opinion.

HON. W. T. LOTON: Yes; and I am expressing my opinion. With the fuller light we have had thrown on the subject, in view of the petition which has been read this afternoon—

HON. A. G. JENKINS: Not one of the signatories to that petition lives within half-a-mile of the reserve.

HON. W. T. LOTON: And which is signed by 230 residents of the locality concerned, in view of the fact that the matter has been considered and favourably reported on by the local authority, also in view of the circumstance that at a public meeting called to consider the site a large majority pronounced in favour of the site selected being granted, I trust the House will fall in with the wishes of the people. Moreover, this is practically a matter which rests with Parliament: Parliament is entitled to say whether or not the site in question shall be resumed for the purpose intended. The matter, I repeat, does not rest with the local authorities; but the authorities have been consulted, and they see no objection to the site. The population in the district is practically agreed that there is no objection whatever to the site. In farther support of this view, I wish to bring to the attention of the House a telegram which I hold in my hand. Possibly certain members have heard something about this telegram, which is from a person who owns property very close to the proposed site; as close, I think, as the property of the hon. member opposite (Mr. Jenkins), who opposes the measure. This telegram has been sent me by the Hon. Septimus Burt, from Carnarvon, and it reads:—

I have no objection whatever to proposed site next Carmichael's for Lady Lawley's Cottage-by-Sea. Suggested depreciation of property in neighbourhood ridiculous.

Mr. Burt knows what he is doing in sending such a telegram. He is interested in property in this locality just as much as are other gentlemen. I have no interest in the matter, owning no land in or near Cottesloe. I wish I did own some land there; then I should settle the matter at once by giving four or five acres. I should not hesitate to do so for a moment. It is deeply to be deplored that after the people of this State have given such unanimous support to Lady Lawley's request and have voluntarily subscribed so large a sum of money, there should be such strong difference of opinion with regard to the site—such strong objection to the granting of the particular piece of land selected. The circumstance is particularly deplorable in view of the fact that there is so large an area of land available in this particular

district. [Several interjections.] The site proposed by the Bill is that chosen by the lady who was the means of gathering this large sum of money; it is the site recommended by the local roads board; it is the site supported by a large majority of people who were summoned to consider the question; and it is the site which has been again supported in a petition signed by a large number of Cottesloe Beach residents. Therefore I, for my part, am quite unable to see why there should be farther antagonism to the Bill. I do trust hon. members will look at the matter in a broad-minded way. Even if any of us do happen to own half an acre or an acre of land within an eighth of a mile or a quarter of a mile of this particular site, a moment's consideration must show us that the proposed institution cannot in any way injure our property, but on the contrary will rather tend to improve it. Property will be improved, and not depreciated, by the erection of a building on this large open space of land. I hope hon. members will at all events veto the amendment proposed, and let us pledge ourselves to the principle of the Bill by passing the second reading. That principle, I repeat, is that we wish a piece of land in the Cottesloe district set aside for the purposes of the Cottage-by-the-Sea. After passing the second reading, hon. members who oppose the particular site proposed can urge their objections in Committee. I do not see why the site should be opposed, and I trust that when it comes to the point the Government will show themselves prepared to adhere to the recommendations of the local authorities and the local residents.

HON. G. RANDELL (Metropolitan): In regard to the amendment now before the House, I make the suggestion—

HON. A. G. JENKINS: I rise to a point of order. I think the hon. member has addressed the House on this matter.

HON. G. RANDELL: I have not spoken to the amendment.

HON. A. G. JENKINS: I think I moved the amendment to which the hon. member spoke.

HON. E. M. CLARKE (South-West): It was not my intention to have spoken on this Bill at all. We have heard a good deal about this Cottesloe site, and I thought the best thing I could do was to

go and have a look at it. I have no land in this locality, like some other members; I wish I had. If I had I do not say I would give the land for a convalescent home. There is one feature of the case which has struck me all along. The supporters of the Bill, while ridiculing the opposition to the measure, have not said a single word to show why the next block to lot 70 would not do to erect the home upon. In any debate it is perfectly fair to show the weakness of an opponent's case, but, at the same time, those in favour of a Bill should show the strength of their own case. I looked carefully at some of the blocks of land, and blocks 70 and 61, which are close together, are very much alike, and I see absolutely no reason why block 61 could not be granted to the promoters of the Cottage-by-the-Sea. It is all very well to say that the opposition is based on sentiment, but sentiment carries us a good way. It is said that sentiment moves the world. Members who are in favour of the Bill should have shown the strength of their own case as well as the weakness of their opponent's case; then we might know why block 61 would not suit. I intend to oppose the Bill.

HON. J. D. CONNOLLY (North-East): I have listened with a great deal of interest to the remarks of Mr. Loton, and to a great extent I agree with them. I may say straight away that I intend to vote for the amendment; but if the Government, even at this late hour, say that they are prepared to alter the site from lot 70 to lot 61, and will give an assurance that the Bill will be amended in that direction in Committee, I will vote for the second reading. I had not intended to speak at all on the question, and it is owing to the remarks which have fallen from Mr. Randell that I do so. That member said this Bill should receive the support of goldfields members. I wish clearly to point out that in voting against the second reading, I am not in any way opposed to this institution. I have contributed to it and I intend to do so again. In voting for the second reading, I am not against the institution but against the site. I make these remarks to set this matter right. If the Government will say they will alter the Bill in Committee, I will support the second reading.

HON. R. G. BURGESS (East): I object to the remarks of Mr. Loton. This is a Bill to reserve lot 70, and if the Bill goes to the Committee stage that will not make it any more a Bill to reserve lot 61. If this Bill is defeated the Government can bring in a fresh measure to reserve lot 61. Before a vote is taken I would throw out my opinion that the Government can bring in another Bill if this one is defeated. The money for this institution has been collected, and I do not know why another lot could not be substituted in place of lot 70. As to the telegram from Mr. Burt which was read by Mr. Loton—and I have no interest in the matter—that does not prove anything. I met a person to-day who has a piece of land at Cottesloe, in this locality. He bought the land on which to erect a dwelling so as to live out of Perth. He paid a good high price for the land because there was a recreation reserve close by. This gentleman objects to this institution being built upon block 70, and I do not know why people should be allowed to object who do not live in the locality. I do not think it would be creditable to the roads board or to the Government to have the Bill rushed through. The people who live in the district should be considered. As to the roads board giving its approval, we all know what roads boards are like. One or two men generally run a roads board. As far as the petition is concerned, I may say that as a rule a petition is not worth the paper it is written on. People may go round with petitions—I have gone round with petitions myself—and if you have good persuasive powers you can get people to sign anything to get rid of you. During the debate last Tuesday, one member mentioned a suggestion from the chairman of the roads board in reference to this matter, and immediately afterwards another member said that one of the members of the roads board had mentioned in a letter that he did not approve of the institution being on the site selected. We have to take these matters for what they are worth. As to the suggestion of Mr. Loton, to allow the second reading to go through and amend the Bill in Committee, I do not think that should be done. This Bill has been brought forward for the purpose of granting lot 70 and no other lot.

HON. C. A. PIESSE (South-East): Knowing as I do the value of allotments adjoining reserves, and as one who has taken up land and who knows how blocks adjoining reserves are eagerly sought after by purchasers, I feel it my bounden duty to support those who reside close to this reserve. I am given to understand, and it is not disputed, that those who have signed the petition which has been presented to the House do not reside close to this reserve. The objections of persons living near the reserve should carry more weight than those who live a long way off. I shall support the amendment that the Bill be read this day six months.

HON. J. A. THOMSON (Central): I do not wish to give a silent vote on this question, because it is of considerable interest to the public and to people living in the neighbourhood where it is proposed to erect this institution. When the matter came before the House in the first instance I felt inclined to vote for the measure, but since then I have changed my opinion entirely, not through any influence which has been brought to bear upon me, but, like Mr. Clarke, I thought the matter was of sufficient importance to inquire into for myself. I am satisfied that there are reserves at Cottesloe equally suitable for this institution as lot 70, and, better still, those reserves are nearer to the sea. In my opinion a far better site could be obtained for a building of the description it is intended to erect than the one suggested. Moreover, I am satisfied that to several sites no objection will be raised by the residents to the erection of the Cottage-by-the-Sea. Many members who have spoken on this question have alluded to personal interests. I do not allow those references to influence me in any way whatever. I do not think a member has a right to allow any personal interest to influence his vote in this House, and if I were living in the particular district referred to, and if there were any other portions of the reserve suitable for such a building as that which it is desired to erect thereon, I do not think I would oppose the measure for fear it might be thought I was opposing it on personal grounds. I do not give any weight to remarks of members who have opposed this matter on personal grounds.

Supporters of the Bill have gone out of their way to insinuate that those who are opposing the measure are opposed to the very laudable object that our revered Governor and his lady took in hand when here. That is altogether unfair. In my opinion, many, if not all, members who have spoken in favour of the Bill have insinuated that those who object to the site are also opposing the institution.

HON. G. RANDELL: No; nothing of the sort.

HON. J. A. THOMSON: I am very glad to have this assurance. The principal point which supporters of the measure have raised is that the site proposed in the Bill would be nearer to the railway station, and would be more convenient for the committee of management who would have to visit the institution. From my experience of committees of management, especially those composed of ladies, if I may be pardoned for saying so, it is well not to have institutions too easy of access, but to have them away from the railway, especially if having them away from the railway would not detract from the usefulness of the object in view. I have fully made up my mind to vote for the amendment.

HON. T. F. O. BRIMAGE (South): The debate was adjourned, I certainly thought, to enable the Government to change the site. We have heard nothing from the representatives of the Government as to whether they intend to change the site or not. I feel more determined to vote for the amendment than I did previously. The Government have taken no opportunity of seeing whether they could change the site, and the supporters of the Bill seem to desire to insist on Parliament passing the measure as it stands. Mr. Randell has presented a petition signed by 236 persons in favour of the site named in the Bill, but the petition does not say how far the persons who have signed the document live from the proposed site. I think one site is as good as another, and I think we should consider those who reside nearest to the proposed building. The suggestion of Sir E. Wittenoom that this building should be put alongside the Convalescent Home should not be lost sight of. Even at this late hour it might be possible to see if something could not be done to carry out that proposal.

THE MINISTER FOR LANDS (Hon. A. Jameson): In reply to the arguments of hon. members on this Bill, which has already been fully discussed, I may say the adjournment was granted so that I might look fully into the subject to see if the Government could obtain block 61 in place of block 70. I understand that if we can get block 61 instead of block 70, all opposition will be withdrawn. I have made inquiry as to whether block 61 can be secured, and I find the committee of the Cottage-by-the-Sea do not object to that block, although they would prefer No. 70 as being more convenient. The committee are prepared to accept block 61 rather than altogether lose a site in the neighbourhood. It is most desirable for the purposes of the home that the site should be either block 70 or block 61. I may point out the exact position in regard to the selection of a block. When the Lands Department is requested to bring forward a Bill dealing with a Class A reserve, the department in every case appeals to the local governing body in order to ascertain whether there is any objection to the reserve in question being granted for the purpose proposed. In this case such inquiries were made, and the department was informed—and, as I understand the position, justifiably so—that there was no objection to a grant of this particular block. Farther, at a public meeting called to consider the question, the majority indorsed the view that there could be no possible objection to block 70 being granted for the purpose intended. I understand that to-day a petition in the same direction has been presented to the House. I wish to emphasise that although the Lands Department referred to the local governing body in the first instance, that body has no rights in the matter whatever. It rests entirely with Parliament to deal with Class A reserves, such reserves not being in any way whatever vested in the local bodies. It is merely portion of the policy of the Government to ascertain the views of the local governing body constituted by the vote of the people, in order that we may ascertain whether or not there is any objection, so far as that body is aware. The onus in this matter rests not on the roads board, but on members of this House: it rests entirely with Parliament to say whether

block 61 or block 70 is to be given to the committee of the Cottage-by-the-Sea. No reference whatever need be made to the local body if members of Parliament approve of block 61 as against block 70. At the same time, we have to recognise—it is my duty to point this out to hon. members—that in granting block 61 in place of block 70 we shall not be acting in accordance with the local wish, so far as I can ascertain what the local wish is. The chairman of the local roads board tells me that he does not think block 61 desirable for the purpose in view. Moreover, there has been no expression of public opinion as to the advantages of block 61 over block 70. The onus of the decision therefore rests entirely with hon. members. I say now that I am prepared to amend this Bill as suggested by Mr. Connolly. The amendment is a very simple one, involving merely an alteration of a figure in the schedule—the substitution of “61” for “70.” With that alteration, I understand, all opposition to the Bill will drop. I would rather that this amendment came from some member of the House, since it is not quite in accordance with the policy which my department adopts; that is to say, in adopting this amendment, Parliament will be placing itself in opposition to the wishes of the local body. However, hon. members know all the arguments which have been used, and if they are prepared to approve of the granting of block 61, and prepared to disapprove of the granting of block 70, then there is an end of the matter. Rather than see the Bill thrown out, I am prepared to accept the amendment suggested. Hon. members may merely support the second reading, and then amend the measure as suggested. I ask, indeed I urge, the House to support the second reading, for I do not think there will be any difficulty whatever in substituting block 61 for block 70, and so removing all opposition, as I understand the matter. Hon. members will be approving merely of the principle of the Bill by supporting the second reading, and will leave themselves free to make the minor amendment suggested. Whether block 61 or block 70 be selected matters little to the residents, and indeed does not matter much to the committee: the point is of little consequence. Seeing that hon. members have stated that they would prefer the selec-

tion of block 61 for the purpose in view, I ask them to support the second reading and subsequently to amend the Bill by substituting “61” for “70.”

HON. G. BELLINGHAM: Better withdraw the Bill and bring in a fresh one.

THE MINISTER FOR LANDS: That is unnecessary, since only a small amendment is required.

Amendment (six months) put, and a division taken with the following result:—

Ayes	...	...	14
Noes	...	...	9

Majority for ... 5

AYES.	NOES.
Hon. G. Bellingham	Hon. J. D. Connolly
Hon. T. F. O. Brimage	Hon. J. T. Glowrey
Hon. W. G. Brookman	Hon. J. W. Hackett
Hon. R. G. Burges	Hon. A. Jameson
Hon. E. M. Clarke	Hon. P. Laurie
Hon. W. Malet	Hon. W. T. Loton
Hon. E. McLarty	Hon. M. L. Moss
Hon. B. C. O'Brien	Hon. B. C. Wood
Hon. C. A. Fiesse	Hon. G. Randell (Teller).
Hon. J. E. Richardson	
Hon. C. Sommers	
Hon. J. A. Thomson	
Hon. J. W. Wright	
Hon. A. G. Jenkins	
(Teller).	

Amendment passed, and the second reading thus negatived.

ADMINISTRATION (PROBATE) BILL.

IN COMMITTEE.

Resumed from the 2nd September.

First and second Schedules—agreed to.

HON. C. SOMMERS said he would move an amendment on recomittal.

Preamble, Title—agreed to.

Bill reported with amendments.

RECOMMITTAL.

On motion by the HON. C. SOMMERS, Bill recommitted.

Clause 87—Absent executor may appoint an attorney:

HON. C. SOMMERS moved “that the word ‘where,’ in the first line, and the words ‘resides out of or is absent from Western Australia temporarily or otherwise he,’ in the second and third lines, be struck out.” If an executor or administrator left the State he was able to appoint an attorney to act in his absence, but if an executor or administrator went to a place 80 miles from Onslow, and was more inaccessible than if he were over the border in another State, he could not appoint an attorney. It would facilitate business if an attorney could be appointed to act in the place of an

executor or administrator when out of reach, but within the State.

HON. M. L. MOSS (Minister): The mover was confusing the duties of an executor with the duties of a trustee. The duties of an executor were to obtain probate of a will, to realise the estate, pay debts, and distribute the property. The duties of an executor were quickly over. Under the Trustee Act of 1900, power was given for a trustee to delegate his powers. In the absence of that provision, a trustee could not delegate any powers and he could not grant a power of attorney, but Parliament made a step in the right direction in empowering a trustee, when temporarily outside Western Australia, to appoint an attorney. If the hon. member desired to give a trustee power to appoint an attorney when distant from the place where he ordinarily resided, there might not be any objection to that, but before one could consent to such an amendment, he would have to consult with the Attorney General. Such an amendment could not be inserted in the measure before the Committee because it was foreign to the object of the Bill. The hon. member proposed that an executor, who was sworn to carry out the provisions of a will, should be enabled to delegate his powers to some other person. That was not necessary.

HON. W. T. LOTON: It was not advisable.

HON. M. L. MOSS: The hon. member wished to give power to a person to delegate his powers as a trustee, which one had never known to be done.

HON. C. SOMMERS: It appeared that if an administrator lived in another State, he had the power to appoint an attorney to act for him; but if a man was in an inaccessible portion of the State, then he could not delegate his powers. The words "by leave of the court" would still remain in the clause if amended according to his desire. He asked that the consideration of the clause be postponed.

Clause postponed.

New Clause:

HON. C. SOMMERS moved that the following be inserted as a new clause:—

The Court may, by way of remuneration, allow to an executor or administrator for the time being, on passing his accounts, a commission not exceeding five pounds per cent. on

the assets collected by such executor or administrator, including rents and income. No allowance shall be made to any executor or administrator who omits to pass his account pursuant to any order of the Court.

In all other States this provision was made. At present if a man made a will, unless he specified some remuneration for the executor, the executor could not claim remuneration for services rendered, and unless this amendment were carried considerable harm might be done. A grazier who had a large estate might desire to appoint his neighbour his executor, and after the man's death the executor could not afford to carry on the estate because no remuneration was provided for the service done. Five per cent. was not too high, and no remuneration would be paid to an administrator unless the accounts were passed. When the Probate Bill left this Chamber last session, such a clause as the one proposed was inserted in it, and he did not know why the clause was struck out. It might be argued that executors should be remunerated by legacies; but values of estates were apt to vary to such an extent, particularly in this country, that such a form of remuneration might not be equitable.

HON. W. T. LOTON: The fact that this clause was in force in States which esteemed themselves progressive, such as New Zealand, should not necessarily induce us to pass it. An executor's remuneration should be fixed by the will. If this new clause were passed, an executor who did not consider himself sufficiently remunerated by the will might apply to the Court for a commission, and thus receive remuneration twice over. The tendency of the clause would be to lead persons to set up as executors' agents, for the express purpose of getting the management of estates. It was not desirable, for instance, that legal gentlemen should act as executors in all cases. Estates in which mercantile and general businesses were concerned could not, as a rule, be well administered by legal gentlemen; indeed, testators in such cases generally appointed private persons or a trustee company to the executorship.

HON. M. L. MOSS: A clause practically the same as this had been moved by him last session, and had resulted in the Bill being thrown out in another

place. The Supreme Court Act, 24 Vict., No. 15, provided:—

It shall be lawful for the Supreme Court to allow to any administrators of the effects of any deceased person such commission or percentage out of the assets as shall be just and reasonable for their pains and trouble therein. The Settled Land Act of 1892, under which Act every will dealing with land was a settlement, provided:—

The Court, or a Judge, may, by order, authorise the trustees of a settlement to retain for their own use out of the income of the trust property, or in case of a sale by the trustees, out of the proceeds of the trust property, a reasonable sum by way of commission for their pains and trouble in the management or sale of the property; but no such commission shall be allowed at a higher rate than five pounds per centum of the income or proceeds.

An order under this section may be made upon summons or petition, or, if the settlement is a will, and the executors are also the trustees of the settlement, upon an application to pass the accounts of the executors.

HON. G. RANDELL: Did that provision apply to personal property?

HON. M. L. MOSS: No. At the present day an administrator was entitled to get from the Supreme Court an order giving him a certain commission or percentage on the whole value of the estate, and under the Settled Land Act he was entitled to a commission or percentage on real property or landed property. Thus, while an administrator was entitled to commission on the whole of the estate, an executor was entitled to commission only on the landed property. A reference to the first schedule showed that this Bill repealed Sections 6, 7, 8 and 9 of 24 Vict., No. 15, and it was Section 9 which made provision for the payment of commission to an administrator. The Bill, therefore, took away the rights which administrators at present enjoyed, but still left the trustees of settlements their claim to commission. Having gone through the statutes regulating the law with the Parliamentary Draftsman, he had satisfied himself that the new clause was in operation in the whole of the Australasian States, including New Zealand, and had been in operation in certain States for as much as 20 years. The clause was very fair, being safeguarded in every way. Before a Judge would make an order under this clause, he would satisfy himself by affidavit, or by witnesses, who would be subject to cross-examination, as

to exactly what work had been done, so that no more than reasonable remuneration might be allowed for the services rendered in the administration of an estate. The West Australian Trustee, Executor, and Agency Company, Limited, charged five per cent. on the value of estates.

HON. W. T. LOTON: No. The company charged five per cent. on estates up to a value of £1,000 only; beyond that limit the rate of commission was reducible.

HON. M. L. MOSS: No doubt a Judge in administering this measure would be largely guided by the scale of remuneration set out in the Trustee Act. It was improbable that a Judge would allow the maximum commission of five per cent. in connection with any but small estates. This matter had not been considered by the Government, and he had risen merely to put the legal position before the Committee, at the same time expressing himself as strongly in favour of the clause.

SIR E. H. WITTENOOM: A strong argument in favour of the clause was that it did away with the necessity for a legacy to the trustee. Legacies were extremely dangerous; since circumstances might change, and an estate might be so reduced in value as to meet only the first charges, namely the legacies, with the result that the widow and children, who had the greatest claim to the property, got nothing. Any testator knowing of the provision suggested would take care to leave the trustee no legacy. If there was no estate, and no work consequently was done, no commission would be paid to the trustee.

HON. A. G. JENKINS: This clause should be added to the Bill. Executors and administrators should receive remuneration for the performance of their frequently laborious duties. A private individual should not be asked to do for nothing what a company charged for doing. If this clause were not passed, the tendency of the Bill would be to force all estates into the hands of the West Australian Trustee, Executor and Agency Company, Limited, since trustees without a prospect of remuneration for their services would be strongly disposed to renounce probate. Mr. Loton was in error when he stated the charges which could be made by a

company were fixed by Act of Parliament. Members should pass this clause so as not to make one law for a private executor and another for a company.

HON. G. RANDELL: A similar clause to this was passed in the Probate Bill of last session, but was struck out in another place, the reasons being that there was a probability of lawyers taking care to get themselves appointed executors and administrators, which was undesirable. Why an attorney should be allowed five per cent. to collect accounts, and an executor or an administrator was not to get five per cent., he could not understand. The Committee might safely leave this matter to persons who left property behind them. If a person was so neglectful of the interests of those he left behind him, then he would be guilty of a dereliction of duty to his family. Considering what had happened to the Bill on a previous occasion when a similar clause to this was inserted, it was not wise now to jeopardise the measure. It was important, he understood, that the Bill should pass as quickly as possible, and it was a pity to risk the Bill being lost. The legal profession in this country were most respectable, but there had been instances in which solicitors had been struck off the rolls. It was desirable to protect the public against such persons.

HON. C. SOMMERS: This provision was passed in the other States in 1879 by conservative Governments. Because there were a few black sheep among the legal profession, the general public were to suffer. In the other States this law had not been abused. It was far better to know that a certain amount was provided by law for persons who worked in the interests of an estate than to leave it to be decided when the work was done.

HON. R. G. BURGESS moved that the new clause be amended by striking out, in line 2, the word "five" and inserting "two and a half."

SIR E. H. WITTENOOM: Would this amendment imperil the Bill?

HON. M. L. MOSS: The amendment would not imperil the Bill, but the Assembly in all probability would not agree to the amendment. Two and a half per cent. was not sufficient when dealing with small estates of £100. It was better to leave the matter to the Supreme Court.

Amendment by leave withdrawn.

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

Ayes...	...	...	16
Noes...	...	...	5

Majority for ... 11

AYES.	NOES.
Hon. R. G. Burgess	Hon. T. F. O. Brimage
Hon. K. M. Clarke	Hon. W. T. Loton
Hon. J. D. Connolly	Hon. G. Randell
Hon. J. W. Hackett	Hon. Sir George Shenton
Hon. A. Jameson	Hon. J. E. Richardson
Hon. A. G. Jenkins	(Teller).
Hon. B. Laurie	
Hon. E. McArthur	
Hon. M. L. Moss	
Hon. B. C. O'Brien	
Hon. C. A. Piesse	
Hon. C. Sommers	
Hon. J. A. Thomson	
Hon. Sir Edward Witte- noom	
Hon. J. W. Wright	
Hon. B. C. Wood	
(Teller).	

Question thus passed, and the clause added to the Bill.

New Clause:

HON. M. L. MOSS moved that the following be added as Clause 89:—

Deposits not exceeding Fifty pounds in any Bank may be paid to the widow or next of kin without probate or administration.

On the death of any person leaving a sum of money not exceeding Fifty pounds standing to his credit in any Bank, if no probate or administration is produced to such Bank within three months of the death of such person, and no notice in writing of any will, or of an intention to apply for administration, is given to the Bank within the said period, the Bank may, after notice in writing to the Curator, pay such sum of money to any person who appears to the satisfaction of the manager of the Bank to be the widow of such deceased person, or to be entitled to the effects of such deceased person under the Statute of Distributions, and payment of such sum of money accordingly shall be a valid discharge to the Bank against the claims of any other person whomsoever.

The object of this new clause was to put an ordinary bank in the same position as the Post Office Savings Bank.

Question put and passed, and the clause added to the Bill.

On motion by Hon. M. L. Moss, progress reported and leave given to sit again.

EXPLOSIVES ACT AMENDMENT BILL.

IN COMMITTEE.

Clauses 1 to 6, inclusive—agreed to.

Schedule:

SIR E. H. WITTENOOM: To handle explosives was not only dangerous, but

also expensive. The charges for magazine licenses proposed in the schedule were too high. He moved that in the paragraph relating to magazine licenses, the words "two pounds," line 2, be struck out and "thirty shillings" inserted in lieu, and that the words "five pounds," line 3, be struck out and "two pounds" inserted in lieu.

Amendments passed, and the schedule as amended agreed to.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

JUSTICES BILL.

SECOND READING.

HON. M. L. MOSS (Minister), in moving the second reading, said: This Bill is merely a consolidating measure; and in Committee I shall be glad to explain any clauses to which my attention may be directed. A reference to the schedule shows that the Bill consolidates 11 statutes, and regulates the practice and procedure before justices of the peace. With the exception of the clause relating to appeal, the measure proposes little amendment in the existing law. The nature of any alterations proposed will be fully explained in Committee. This Bill seeks to lay down within the limits of one measure a code of procedure at present scattered through 11 statutes, and to deal with criminal procedure in the lower courts in the same way as the criminal code passed last session deals with criminal practice in the Supreme Court. Resident magistrates and honorary justices will in this measure find the whole of the law and the practice regulating their proceedings. Hon. members will agree as to the desirability of simplifying in every possible manner procedure before justices, and that end the Bill seeks to attain.

SIR E. H. WITTENOOM (North): I rise merely to ask a question. Not having read the Bill, I do not know whether it contains any provision to the effect that a list giving the names of all justices of the peace throughout the State, together with the dates of their respective appointments, shall be published annually in the *Government Gazette*. When many justices meet on the bench, it is often difficult to decide

who is the senior, since every justice cannot be expected to remember the date of every other justice's appointment. It would be well, therefore, if such a list as I have suggested were published annually, or every two or three years.

HON. M. L. MOSS (in reply): The practice referred to by the hon. member was in force here years ago; but it has fallen into desuetude. The idea is certainly a good one. The Bill, however, contains no provision to that effect.

SIR E. H. WITTENOOM: Will you insert such a provision?

HON. M. L. MOSS: I shall confer with the Attorney General on the point. I think it probable that the Government will give the hon. member's suggestion practical effect.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

On motion by the MINISTER FOR LANDS, the House adjourned at 6:35 o'clock until Tuesday, 23rd September.

Legislative Assembly,

Tuesday, 9th September, 1902.

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

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Commissioner of Police, Report for 1901-2.