

Legislative Council,

Wednesday, 11th September, 1895.

Assisted Schools: report of Joint Committee—Federal Council: resignation of member—Resignation of Governor; despatch from Secretary of State—Lands Titles Department: strong room for—Trustee Ordinance Amendment Bill: second reading; Committee—Duties on Estates of Deceased Persons Bill; Committee Ecclesiastical Grant Abolition Bill: first reading—Loan Act 1894 Amendment Bill: first reading—Associations Incorporation Bill: first reading—Crown Suits Bill: first reading—Sale of Goods Bill: first reading—Mines Regulation Bill: Committee—Partnership Bill: Committee—Adjournment.

The PRESIDENT (Hon. Sir G. Shenton) took the chair at 4.30 o'clock, p.u.

ASSISTED SCHOOLS.

REPORT OF JOINT COMMITTEE.

THE HON. S. H. PARKER brought up the report of the Joint Select Committee of the Legislative Council and the Legislative Assembly appointed to consider the terms on which it will be equitable to abolish the Assisted School System of Public Education, and moved that it be received.

Question put and passed.

Report received, and ordered to be printed.

FEDERAL COUNCIL—RESIGNATION OF MEMBER.

THE PRESIDENT (Hon. Sir G. Shenton) reported the receipt of the following message for His Excellency the Administrator:—

ALEX. C. ONSLOW,

Administrator.

In accordance with Section 5 of "The Federal Council (Adopting) Act, 1885," the Administrator has the honor to inform the Honorable the Legislative Council that, on the 25th of July, 1895, the resignation of William Silas Pearce, J.P., as a Member of the Federal Council of Australasia, was tendered, and accepted on the 3rd of September, 1895.

Government House, Perth, 3rd September, 1895.

RESIGNATION OF GOVERNOR.

DESPATCH FROM SECRETARY OF STATE.

THE PRESIDENT (Hon. Sir G. Shenton)

reported the receipt of the following Message from His Excellency the Administrator:—

ALEX. C. ONSLOW,

Administrator.

The Administrator has the honor to inform the Honorable the Legislative Council that he has received a Despatch from the Right Honorable the Secretary of State for the Colonies, announcing the resignation of Sir William Cleaver Francis Robinson, G.C.M.G., as Governor of this Colony.

Copies of the Right Honorable Mr. Chamberlain's Despatch, and Sir William Robinson's letter of resignation are herewith transmitted.

Government House, Perth, Western Australia, 4th September, 1895.

COPY.

WESTERN AUSTRALIA }
No. 21 }

Downing-street, 30th July, 1895.

SIR,

I have the honor to transmit to you, for the information of your Government and for record in the colony, a copy of a letter from Sir William Robinson, G.C.M.G., tendering his resignation of the Government of Western Australia.

I have informed Sir W. Robinson that his resignation is accepted as from 16th August, and have intimated to him the high appreciation in which his long and varied services have been held by successive Secretaries of State for the Colonies.

You will be informed later on of the choice of his successor.

I have, etc.,

(Signed) J. CHAMBERLAIN.

The Officer Administering the Government of Western Australia.

(COPY.)

73 Chester Square, 12th July, 1895.

SIR,

Lord Ripon having given me to understand that I am not likely to be offered another appointment after the termination of my period of service in Western Australia, in October, 1896, I have taken advantage of my visit to London to secure, while I can, some positions which will be of value to me when I cease to be employed as Governor.

I therefore ask that my resignation of the Governorship of Western Australia may be accepted as from the 16th proximo, when my leave of absence will expire, and that my

pension will be assigned to me from that date.

I have been 32 years in actual employment as Governor:—

Montserrat	...	...	1862
Dominica...	...	...	1865
Falkland Islands...	...	...	1866
Prince Edward Island	...	...	1870
Western Australia	...	...	1874
Straits Settlements	...	...	1877
Western Australia (2nd time)	...	...	1880
South Australia	...	...	1882
Victoria (Acting)	...	...	1889
Western Australia (3rd time)	...	...	1890

The above dates show a service of 33 years, but I was one year out of employment after the union of Prince Edward Island with the Dominion of Canada, leaving, as stated, a net actual employment of 32 years. I may add that for several years past I have been the senior member of the service, in which more than half of my life has been spent, and which I can assure you I leave with the deepest regret.

I have, etc.,

(Signed) W. C. F. ROBINSON.

The Honorable Sir Robert Meade, K.C.B.,
Colonial Office.

LAND TITLES DEPARTMENT.

THE HON. S. J. HAYNES moved:—"That it is desirable, in the interests of the public, that a strong room and suitable premises be speedily erected for the Registry of Deeds and the Office of Land Titles, and that the Officers of the Department be consulted in respect of requirements." He said: I think it must be well known to hon. members that the present conveniences in connection with the office of Lands Titles are totally inadequate, and that the fittings are both unsuitable and risky. At any moment a fire might break out, in which event thousands of pounds worth of valuable records would be destroyed, causing considerable confusion and serious loss to the public. Only recently there was, I am told, a narrow escape, but, fortunately, the watchman discovered the fire, otherwise the whole pile of buildings would have been destroyed. I believe that the Government have made provision on the Estimates for the construction of new offices, but my motion has for its object the more speedy carrying out of the work, on account of the daily risk which is involved.

The offices I refer to are over the Postal and Telegraph Department, where there is a considerable quantity of inflammable matter, and where a fire might, at any moment, break out. I believe there are, also, certain chemical compounds stored for use by the Telegraph Department, which add to the risk. My motion further provides that the officers shall be consulted in regard to their requirements before the specifications are finally passed. In the past, the arrangements made for the safe keeping of the records were totally inadequate, and, had the officers been consulted, more conveniences would have been provided. I trust this motion will be agreed to, so that it may have the effect of having the buildings pushed on, and so that officers may be consulted as to the conveniences they require.

Question put and passed.

Ordered that the resolution be transmitted to the Legislative Assembly, and their concurrence desired.

TRUSTEE ORDINANCE AMENDMENT BILL.

SECOND READING.

THE HON. J. C. FOULKES: I have now to move that this Bill be read a second time. It is a Bill to amend the Trustee Act, 17 Vic., No. 10, which is an Act which adopts the English Statute 13 and 14, Vic. c 60, and which deals with trust estates. Under this Act the Supreme Court was enabled to deal with estates where the trustees and mortgagees were under some personal disability. After the Act of 1850 came into force, a subsequent Act was passed which gave power, not only to trustees and mortgagees, but also to others who were interested in estates, and who were under disabilities. Both of these Acts were supposed to have been adopted here by the Act, 17 Vic., No. 10. If hon. members will look at the marginal note to that Act they will see that it was intended to adopt both of these Acts, but on reading the Act itself, the second of the Acts does not appear to have been adopted, and the present Bill is to give effect to what was obviously intended before. The result of the Act not having been adopted is that, although the Supreme Court may order the sale of estates, there is no machinery by which a title can be given to the purchasers. A short time ago an order was made for the sale of some property and it was sold, but after the purchase money had been paid into the

Supreme Court, it was found that no machinery existed to give the purchasers a title, owing to this Act not having been adopted. The defect in the former adopting Act I now propose to set right by this Bill.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

The Bill was then considered in committee, agreed to without amendment, and reported.

DUTIES ON DECEASED PERSONS
ESTATES BILL.

IN COMMITTEE.

Clause 10—"Duties imposed":

THE HON. F. M. STONE moved, "That it be a suggestion to the Legislative Assembly that the following words be added to the clause:—'Provided further that if such last-mentioned persons shall, by affidavit, satisfy a Judge of the Supreme Court that the property so acquired does not exceed the value of £5,000, and that the income thereof is only sufficient for the maintenance, or the maintenance and education of such persons, the said Judge shall thereupon make an order exempting such property from duty, and upon such order being made no duty shall be payable.'" He said: Hon. members will see that the previous part of the clause provides that if certain persons occupy the positions set out in the third schedule the duty shall only be one-half. The clause I propose to add will exempt from duty these persons, if they are able to satisfy a judge that the value of the property which comes to them by the will or by the administration, does not exceed £5,000, and that the income from it is only sufficient for the maintenance of the wife or the maintenance and education of the children. This can only be done where the amount does not exceed £5,000. The income on £5,000 would, at 5 per cent., give an income of £250 a year, and this sum would be none too much, taking the case of the widow and five children I have previously mentioned, to maintain herself upon and educate her children with. I do not say that in all cases such an estate should be exempt from duty, because the wife might have other means, and she would not then be able to satisfy a judge that the whole of the income was required for her maintenance and the maintenance and education of her children. If some such clause as this is

not put into the Bill a great hardship will be worked upon those to whom land is left, because it will mean either that the land will have to be sold in order to realise the amount necessary to pay the duty, or the money will have to be borrowed, and thus the amount of the duty will really come from the income. Land may be worth only £3,000, but it may bring in a rental of £250, and it would be very hard on those whose sole means of income such is, if they had to sacrifice the land in order to pay the duty. I know an instance of where a mortgage of the value of £2,000 was left, and this was the sole means of maintenance. If this Bill were to pass as it is, the money to pay the duty would either have had to be borrowed, or the mortgage would have had to be transferred, and many such instances, I am sure, will occur, unless the amendment I propose is adopted. In another case I know of an hotel which was left to seven or eight orphan children, and their sole income was derived from the rents from it. If the duty had to be paid under this Bill, a sum of money would have to be borrowed, say £50, and then, in addition to this, there would be the costs, which would amount to another £50 or £60, and to that extent the income would be reduced. Under the Life Assurance Act, provision is made for the protection of the amount assured against the creditors, so that the wife and children may get the benefit of it. In this instance, I propose to carry out the same principle, and allow the wife and children to have the full benefit of what is left, provided the sum does not exceed £5,000. I do not think the amendment will work a hardship upon anyone, and I think it is the duty of the Legislature to leave a sufficient income so as not to allow the beneficiaries to become a burden on the State. It may be said that £5,000 is too high, especially in the case of a bachelor, but then I might point out that such a person would not be able to satisfy a judge that the income was only sufficient for his maintenance, nor would a wife who was receiving money under a settlement be in any better position. I therefore propose this amendment.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): I fail to see that the hon. member has brought forward a single argument in favor of the amendment he proposes. A considerable time has lapsed since this debate was adjourned, and I must say I was prepared to have heard something more cou-

vincing on this subject. If this amendment is carried it will destroy all the good effects of the Bill. It will certainly render it, as the Hon. Mr. Crowder said, inoperative, because few estates after paying the debts will have a balance of £5,000 to the good. This is a fair and equitable tax levied upon people who have the money to pay it with. The poor person is already considered by the Bill, because estates up to the value of £1,500 are free, and I think hon. members will agree that that is a fair amount. The idea of the Government is to obtain a little revenue under this Bill, and so reduce the taxation in other directions which presses on the poor. I hope, therefore, hon. members will not allow the amendment to pass. Referring to the argument of the Hon. Mr. Stone, and taking an estate of £5,000, the duty payable in respect to it would be £50 if the persons entitled to it were those mentioned in the third schedule. Thus, all that would be lost would be £2 10s. a year, which is the interest on the £50, and this is a very small sum indeed. Then take the case of an estate worth £2,000. The first £1,500 would be exempt, and the duty on the balance, if the estate went to the wife or children, would only be £2 10s. Under these circumstances, it would be absurd to go to the cost of swearing affidavits to satisfy a judge that the whole of the income was required for the maintenance of the wife, or the maintenance and education of the children. If the amendment is passed, the Bill might as well be thrown out altogether, and, as far as the benefits of the amendment are concerned, they seem to me hardly worth considering.

THE HON. J. C. FOULKES: There are wonderful points of moderation in the argument of the Hon. Mr. Stone. If he wishes to exempt the widow and children from this small amount of duty, he should also exempt them from duty on tea, sugar, boots, and shoes, and other like articles. Although the hon. member has met a few people who would feel this duty, it does not follow that everyone would feel it. A man capable of working might have £5,000 left to him, and might then say he would not do another stroke of work. He could then go before a judge and say that the income for the amount left to him was only sufficient for his maintenance. Another reason why this amendment should not be agreed to, is, that no similar provision exists in the English Act, or in the Acts of the other colonies.

THE HON. C. A. PIESSE: I intended to move in Clause 4 to make the minimum £2,500 instead of £1,500, but I was too late. I think that would have been better than this amendment, although I shall support it as being more in accord with my views than the Bill as it stands. I could name ten or fifteen cases in my district where this Bill would work a great hardship. In some instances the land which is left may be worth £2,000, but the estate could not find a £10 pound note in cash. In order to meet the duty, therefore, the land would have to be sacrificed, or the money borrowed. If the amount, as the Hon. the Minister for Mines says, is so small, why should we not let the widow have it. As I have said, I am not altogether in accord with the amendment, because it puts in motion a lot of machinery I am not in favor of, that of having to deal with a judge of the Supreme Court.

THE HON. A. B. KIDSON: I am sorry I cannot support the amendment, although I believe the hon. member is conscientious in bringing it forward, because he does not approve of the Bill, but I do not think he is conscientious as regards the amendment itself, because there are so many objections to it that it is almost impossible to enumerate them. I shall endeavor to point out one or two of the anomalies. The hon. member proposes that the matter shall be brought before a judge, but I do not think judges would be pleased at being called upon to decide such matters as these, and, in many cases, they would have the greatest difficulty in deciding. They could only decide for the duty, or against the duty, and where would they draw the line? We have heard of the widow and five children. Would the line be drawn there, or at the widow and four children, or at the widow and three children? The Hon. Mr. Piessé said that the amount was so small that we had better let the widow have it, but I think the smallness of the amount is an argument in favor of the Bill, because it is a recognised principle that taxation should be imposed where it is least felt. In some of the cases mentioned by the Hon. Mr. Stone, he referred to the difficulty of finding the amount required to pay the duty. Take the estate of £2,500, I do not think there would be the slightest difficulty in raising the £5 to meet the duty. It would not be necessary to go to Court for leave to borrow the money in every instance, because I might

point out that in case of an intestacy the administrator has the right to pay everything necessary out of the estate, and, if the testator has not provided for the payment of these small amounts under his will, it rather serves him right that application should have to be made to the Court, because he has not taken steps to have his will legally drawn up.

THE HON. C. A. PIESSE: What about the expense?

THE HON. A. B. KIDSON: There are expenses in connection with every will, but I do not suppose, in the case I mention, that they would come to more than 30s. This is a wonderful Government, but I do not think they will be in a position to continue taking off the duty on necessary articles of consumption without putting it on somewhere else. I shall, therefore, oppose the amendment.

THE HON. F. M. STONE: The Minister for Mines says that the amendment will destroy the Bill, and I take it from that, that he thinks that this £5,000 would be exempt in every instance. That is not so; it will only apply where the persons mentioned in the third schedule are concerned, and where it is shown beyond doubt that the whole of the income is necessary for the maintenance of the wife, and the maintenance and education of the children. Then the Minister says the amount is small, but it is not the £2 10s. I am arguing about, but the £50. It is all very well to say borrow it, but in practice it will come out of the income, and that at a time when the heaviest expenses will have to be incurred. The Hon. Mr. Kidson objects to the provision as to satisfying a judge, but that is done every day. Where children are made wards of Court a judge has to say what amount shall be paid out of their estate for their maintenance and education. The Hon. Mr. Piesse said it would be better to increase the minimum, but I might point out that, in that case, there would be no safeguard as there is here. I only want to see persons protected where the Legislature has already protected them in the case of life assurance.

THE MINISTER FOR MINES (Hon. E. H. WITTENOOM): I will only say one word to make the matter clear. Hon. members will understand that this duty is only paid once, and that it is paid out of the capital of the estate. The hon. member seems to think that very few would take advantage of the amendment, but I think everyone would try to get out of the payment of duty.

THE HON. J. W. HACKETT: I only wish to say a word to emphasise the maze of confusion we shall be in, if we adopt the amendment. Already the lawyers in this House are at logger-heads upon the point, and what will it be when we have twenty or thirty others trying to pick holes in it. I think the amendment will not only lead to litigation, but it will also lead to fraud. I myself can see half-a-dozen ways in which the amendment can be twisted. For instance, supposing, in the case of the widow who has been mentioned, the exemption were allowed, who is to follow the money and see that it is applied to her maintenance or to the maintenance and education of the children. To raise the amount to £5,000 means to cut down the Bill by nine-tenths. £1,500 is a handsome sum to exempt, and the duties payable on the higher amounts will go to relieve, in other directions, those who have not been so fortunate as to have even £1,500 left to them.

The Committee divided with the following result:—

Ayes	...	...	...	...	6
Noes	...	...	...	...	10

Majority against 4

Ayes	Noes
Hon. R. G. Burges	Hon. W. Alexander
Hon. S. J. Haynes	Hon. D. K. Congdon
Hon. C. A. Piesse	Hon. E. W. Davies
Hon. J. E. Richardson	Hon. J. C. G. Foulke
Hon. E. Robinson	Hon. J. W. Hackett
Hon. F. M. Stone	Hon. A. B. Kidson
(Teller).	Hon. H. McKernan
	Hon. E. McLarty
	Hon. H. J. Saunders
	Hon. E. H. Wittenoom
	(Teller).

Motion negatived.

Clause agreed to.

Clause 11 to 14 agreed to.

Clause 15.—“Where too little duty has been paid.”

THE HON. C. A. PIESSE: This Clause, I think, leaves the matter rather too open. If too little duty has been paid, the time in which it should remain a debt to the Crown should be limited. I propose, therefore, to insert the words “within six months” after the word “if.” The Clause will then read that if within six months after any duty has been paid it shall be discovered that too little has been paid, the amounts so payable shall be a debt to Her Majesty.

THE MINISTER FOR MINES (Hon. E. H. WITTENOOM): I hope the hon. member will not press this amendment. The same provision exists in other Acts, and, no doubt,

the proper duty will be paid in nearly every instance. If it is not, there is no reason why we should exempt the persons entitled to pay simply because they have not paid for six months.

Amendment put and negatived.

Clause agreed to.

Clauses 16 and 17 agreed to.

Clause 18—"Fees to be paid in certain cases."

THE HON. C. A. PIESSE: I call the attention of the Minister for Mines to the Latin words in this Clause. I think these words should be put into plain English, because everyone is not a lawyer, and it is not everyone who is capable of understanding these legal terms.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): They are ordinary legal terms, and I think nearly everyone knows what they mean.

Clause agreed to.

Clause 19 to 21 agreed to.

Clause 22. "Duty payable on property transferred in evasion of the Act."

THE HON. C. A. PIESSE: This Clause is retrospective, and I do not think any person should be made liable for what he may have done 10 years before the Act came into force.

Clause agreed to.

The remaining Clause was agreed to.

New clause:

THE HON. F. M. STONE moved, that it be a suggestion to the Legislative Assembly that the following New Clause be added to the Bill, to stand as No. 24:—"All charitable institutions shall be exempt from the provisions of this Act." He said: The object of this Clause is that charitable institutions and orphanages shall be exempt from duty. It seems to me wrong that if these institutions obtain a legacy they should have to pay duty upon it.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): Under this Bill the wife and children have to pay half duty, and I cannot see why charitable institutions should be still better off. In England many men leave money to charitable institutions at the expense of their families, and I think it is only right when such institutions do get the money in this way, they should contribute something to the revenue. I cannot, therefore, support the clause.

Clause negatived.

Schedules agreed to.

Bill reported.

ECCLESIASTICAL GRANT ABOLITION BILL.

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

LOAN ACT, 1894, AMENDMENT BILL.

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

ASSOCIATIONS INCORPORATION ACT.

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

CROWN SUITS BILL.

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

SALE OF GOODS BILL.

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

The President then left the Chair for one hour.

On resuming,

MINES REGULATION BILL.

IN COMMITTEE.

Clause 12 "Managers to be appointed":

THE HON. F. M. STONE moved that the word "resident" be inserted before "manager," in the second line. He said: I intend this amendment to apply throughout the Bill, and the object of it is to draw a distinction between the person who has the nominal management of the mine, and the actual working manager at the mine. At the present time one man may be manager of five or six mines, but at each of them there is a person in charge who is called the manager. If, therefore, we leave the word "manager" as it is in the Bill, it will lead to confusion. My object is to provide that there shall be some person in charge of a mine who may be responsible for carrying out the provisions of this Act.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): I do not desire to raise any opposition to the Hon. Mr. Stone, because we are both laboring in the same direction, but I have thought out the question, and I cannot see that there will be any confusion. What the Hon. Mr. Stone anticipates is that some gentleman, who is in charge of six or eight properties, will be confused with the mining

manager, and he proposes to alter the term throughout the Bill. I would suggest that rather than do this we should alter the Interpretation Clause, and this I propose to do, if hon. members will allow the Bill to go through as it is.

THE HON. F. M. STONE: I am told by those who understand the subject that some distinction is necessary, so that persons at Home may know who it is that is reporting—whether it is the resident manager on the field, or the manager in charge on behalf of the owners.

THE HON. H. J. SAUNDERS: I shall support the amendment, because I think it is necessary there should be a distinction. There are several well-known engineers who are in charge of five or six mines, and it is necessary to know whether they are reporting, or whether the manager at the mine is reporting.

THE MINISTER FOR MINES (Hon. E. H. WITTENOOM): Any confusion of this sort may be got over by the companies adopting the terms used in the Bill.

THE HON. F. M. STONE: I might point out that in Clause 12 the word "manager" is used, and in Clause 18 the words "mining manager" are used. I would like to know whether it is intended there should be any difference between these individuals?

THE HON. J. W. HACKETT: I agree with the Hon. Mr. Stone that Clause 18 seems to introduce a new species of officer; but I would suggest that we pass the Clause, on the understanding that we, later on, re-commit the Bill for the purpose of altering the Interpretation Clause.

THE HON. A. B. KIDSON: If hon. members will turn to the Interpretation Clause they will see that there is only one definition for both manager and mining manager, so that if we alter the Interpretation Clause we can do all that the Hon. Mr. Stone requires.

The Committee divided with the following result:—

Ayes	2
Noes	11
—	
Majority against	9

AYES.
 Hon. H. J. Saunders
 Hon. F. M. Stone
(Teller).

NOES.
 Hon. W. Alexander
 Hon. R. C. Burges
 Hon. D. K. Congdon
 Hon. F. T. Crowder
 Hon. E. W. Davies
 Hon. J. W. Hackett
 Hon. S. J. Haynes
 Hon. A. B. Kidson
 Hon. H. McKernan
 Hon. C. A. Piesse
 Hon. E. H. Wittenoom
(Teller).

Amendment negatived.

Clause agreed to.

Clauses 13 and 14 agreed to.

Clause 15: "Duties and responsibility of manager":

THE HON. A. B. KIDSON moved that the word "immediately" in the third line be struck out, and the words "as soon as practicable" be inserted in lieu. He said: It might be almost impossible for a manager to report to the nearest inspector any breach of the provisions of the Act immediately, and if he did not, he would be liable to a penalty. My amendment gives the manager a better chance of doing that which the Act says he shall do.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 15: "Notice of accident to be given to Inspector of Mines":

THE HON. A. B. KIDSON moved that the words "or as soon thereafter as possible" be inserted between the words "ours" and "after" in the first line. He said: It might be impossible for a manager to give the notice required by this Clause within 24 hours. In some cases he might not be able to get hold of the inspector.

Amendment put and passed.

THE HON. F. M. STONE moved that the words "in any mine" in the second line, be inserted after the word "accident." He said: The clause as it stands is nonsense, because, under it, a man might have to report an accident which occurred 50 miles away from the mine.

THE MINISTER FOR MINES (Hon. E. H. WITTENOOM): If the hon. member will amend his proposal, so that it shall read "the manager shall report the occurrence of any accident in connection with the mine," I will accept it.

THE HON. F. M. STONE: I accept that. I beg to withdraw my amendment.

Amendment, by leave, withdrawn.

THE HON. H. J. SAUNDERS—I move, after

the word "accident," to insert the following words "in or upon any mine."

Amendment put and passed.

Clause, as amended, agreed to.

Clause 17: "The place in which an accident has occurred shall not be interfered with, except with a view of saving life or preventing further injury, until it has been examined by the inspector, or, in his absence, by two competent persons appointed by a warden or a Justice of the Peace."

THE HON. F. M. STONE: I move that this Clause be struck out. The accident might be a simple one, and it would be very hard on the mine owners if nothing could be done until the Inspector, who, at the time of the accident, might be a long distance away, had examined it. I think it is quite sufficient if those who are working on the mine see what the accident is, and, if there is an inquest, those people can give evidence.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): This Clause is in the Acts of other colonies, but it seems to me that we might as well omit it here, seeing that the distances are long, and that it would not be desirable to stop all operations for, perhaps, a week, in the event, say, of a man breaking his leg.

Clause struck out.

Clause 18 agreed to.

Clause 19: "Accident evidence of neglect."

THE HON. F. M. STONE: I propose to strike this Clause out also. If a man brings an action to recover damages owing to an accident, he should be prepared to show that the accident was caused through the neglect of the mine-owner. I do not see that the mine owner should prove that there was no neglect.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom): I am unable to accept this amendment, because this seems a proper and necessary Clause. In legislation of this kind we must look after the miner, and see that he is safe as far as possible. This Clause need not trouble anyone who takes proper precautions, but we must make owners feel that they have some responsibility as regards accidents, which may happen through their neglect.

THE HON. F. M. STONE: The miner is fully protected by Clause 26, which says:—"If any person in or about a mine suffer injury in person, or is killed, owing to the negligence of the owner of such mine, or his agent or agents, or owing to the non-observance in such mine of any of the provisions of this Act (such

"non-observance not being solely due to the negligence of the person so injured or killed), the person injured, or his personal representatives, or the personal representatives of the person so killed, may recover, in any court of competent jurisdiction, from the owner of such mine compensation by way of damages, as for a tort committed by such owner.

"Provided that in estimating the damages due regard shall be had to the extent (if any) to which the person injured or killed contributed by any negligence on his own part, to the injury or death."

Question—That the Clause proposed to be struck out stand part of the Bill—put.

The Committee divided.

Ayes	8
Noes	6
	—

Majority for	2
Ayes.	Noes

Hon. W. Alexander	Hon. R. G. Burges
Hon. D. K. Congdon	Hon. F. T. Crowder
Hon. E. W. Davies	Hon. S. J. Haynes
Hon. J. C. G. Foulkes	Hon. C. A. Piesse
Hon. J. W. Hackett	Hon. H. J. Saunders
Hon. A. B. Kidson	Hon. F. M. Stone
Hon. H. M'Kernan	(Teller.)
Hon. E. H. Wittenoom	

(Teller.)

Clause agreed to.

Clauses 20 to 24 agreed to.

Clause 25. "Employees to satisfy themselves of safety of appliances."

THE HON. A. B. KIDSON moved that the words "ceased to" in line 4 be struck out, and that the word "not" be inserted.

Amendment put and passed.

THE HON. A. B. KIDSON moved that the words "or apparently unsafe" be inserted after "unsafe," in line 5.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 26. "Employer to compensate employee injured through negligence of owner or agent."

THE HON. A. B. KIDSON moved that the words "and deciding the question of costs" be inserted between "damages" and "due" in the first line of the proviso. He said: It is only right, if a judge thinks a frivolous action has been brought, he should be allowed to award costs as he thinks fit.

Amendment put and passed.

Clause, as amended, agreed to.

The remaining clauses were agreed to.

New clause.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom) moved that the following new clause be added to the Bill:—"This Act shall apply only to mines in which more than five persons are ordinarily employed below ground, provided that the Governor-in-Council may, by proclamation in the *Government Gazette*, extend the operation of this Act to any specified mine where less than five persons are employed." He said: This is intended to apply to persons who are prospecting the country. We have workings at which it is impossible to carry out the provisions of the Act, but when they are developed, and really become mines, then the Governor-in-Council has power to make the provisions of the Act apply.

Clause agreed to.

Postponed Clause 10—"Upon miner making complaint, inspector to make enquiry."

THE HON. A. B. KIDSON moved that the words, "it shall be the duty of such inspector forthwith to," be struck out, and the words "such inspector may, if he shall think fit," be inserted in lieu. He said: This will prevent inspectors being compelled to inspect a mine on the occasion of every complaint. The matter has been fully discussed, and I now simply move the amendment.

Amendment put and passed.

THE HON. A. B. KIDSON moved that the word "to," in the third line, be struck out.

Amendment put and passed.

Clause, as amended, agreed to.

Postponed Clause 11 agreed to.

Preamble agreed to.

Bill reported.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom) moved that the Bill be re-committed.

Question put and passed.

The President left the chair.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom) moved, in Clause 3, "Interpretation," "That the words 'the management,' in the interpretation of 'Mining-Manager,' be struck out, and that the words 'immediate charge on a mine' be inserted in lieu thereof."

Amendment put and passed.

THE MINISTER FOR MINES (Hon. E. H. Wittenoom) moved, as a further amendment, "That the words 'a mine,' in the third line of the same paragraph, be struck out, and that the words 'the same,' be inserted in lieu thereof."

Amendment put and passed.

Clause, as amended, agreed to.
Bill reported.

PARTNERSHIP BILL.

THE HON. F. M. STONE moved, "That the House now resolve itself into a committee of a whole to consider this Bill."

Question put and passed.

Clauses, 1 to 14 agreed to.

Clause 15. "Effect of notice that firm will not be bound by the act of partner."

THE HON. A. B. KIDSON: I do not think that the second portion of this clause is desirable, and I move to strike out the subsection.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 16 to 46 agreed to.

Clause 47.—"Rights of creditors against apparent members of firm."

THE HON. A. B. KIDSON moved, as an amendment, "That the words 'and in a Perth or local newspaper (if any)' be inserted between the words '*Gazette*' and 'as,' in the first line of the second paragraph."

Amendment put and passed.

Clause, as amended, agreed to.

The remaining clauses were agreed to, and the Bill reported.

ADJOURNMENT.

The House, at 8.40 o'clock, p.m., adjourned until Thursday, September 12th, 1895, at 4.30 o'clock, p.m.