manner that would not interfere with any of the other clauses of the Bill.

Amendment passed; the clause as amended agreed to.

Clauses 3 to 8—agreed to.

Clause 9—Land Tax:

MR. BATH: The Government should agree to report progress on this clause.

THE PREMIER: There was nothing debatable in it.

MR. BATH: Yes, in the proviso.

On motion by the TREASURER, progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at half-past 11 o'clock, until the next day.

Legislative Council,

Wednesday, 29th August, 1906.

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

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Electoral Act, 1904—Regulation made under the provisions of Section 25.

QUESTION—MUNICIPAL SUBSIDIES.

HON. J. W. LANGSFORD asked the Colonial Secretary: 1, What reduction is proposed to be made by the Government in the subsidies to municipalities? 2, When will the reduction take place? 3, Will rates due this year, but not paid till next year, be entitled to the subsidy on the present basis?

THE COLONIAL SECRETARY replied: 1, 20 per cent. 2, 1st November next. 3, No. Present subsidy will be paid on rates received during the municipal year ending 31st October next.

RETURN—PUBLIC WORKS IN NORTH PROVINCE.

HON. R. F. SHOLL (North) moved—

That a return be laid upon the table of the House, showing for two years ending 30th June, 1906—1, The amount of (*a*) Loan Money, (*b*) Consolidated Revenue, expended on public works in the districts embraced in the North Province. 2, Such return to give particulars of the works, the amounts expended thereon, and the district in which such moneys have been expended.

The previous return he had asked for cost the country £50; therefore he was rather chary about calling for returns. However, he wanted to know how much of the enormous sums borrowed for public works had been expended in the North Province; and if it would not cost too much, he would like a return of the expenditure of money on public works since the introduction of Responsible Government. Members would then realise that the northern portion of the State had been somewhat neglected. It was to be hoped this return would be furnished quicker than the one supplied by the Lands Department.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): There was no objection to the return; but he would impress on members that unless they required the information for a particular purpose, it should not be asked for. Often information could be obtained without a return. The return in reference to the Goomalling-Dowerin, the Katanning-Kojonup, and the Wagin-Dumbleyung Railway lines had cost over £50. If members would look through that return, they would see there was a large amount of work; and he did not think the information could have been supplied sooner by the Lands Department. If paragraph 2 of the motion were cut out, it would save a considerable cost. If it was the desire of the member to show the amount

of money that had been expended in the North Province, that object would be attained by carrying the first portion of the motion. The Government did not wish to withhold information from the House, but members should not make such motions too general. If members required particular information, they should ask for it, as returns were costly. In the past, members had asked for returns, and he doubted if they had made use of them subsequently.

HON. J. W. HACKETT (South-West): Would the mover include in the return the amount of revenue received?

HON. R. F. SHOLL: Yes.

HON. J. W. HACKETT moved an amendment, that the following be added:—

3, And the revenue received from the North Province.

HON. J. W. LANGSFORD (Metropolitan-Suburban): If the return were to show the revenue received from all sources, should it not show all the expenses charged to revenue? The motion provided for public works expenditure only.

HON. R. F. SHOLL (in reply): The motion sought to ascertain what loan and revenue funds had been spent in the districts of the North Province. The bulk might have been expended in one district, hence the necessity for distinguishing. It was refreshing to hear the Minister talk of the cost of returns. Members worth their salt ought to seek such information, and the Government ought to give it freely. If Ministers wished to curtail expenses, do away with some special trains such as that which took two or three people to Bunbury to hear the Premier's policy speech at a time when Ministers were proposing to reduce each of their salaries by £200.

THE COLONIAL SECRETARY: The carriage was attached to a goods train.

HON. R. F. SHOLL: The return tabled yesterday contained much needless information, the expense of providing which might have been saved by a telephone message to him. The cost of the return was ridiculous. As to the return now asked for, the department ought to have recorded in their ledgers the expenditure on each work. Any business firm with proper books could supply such information in 24 hours. He protested against any demur to furnishing returns. The Notice Paper in another place was crowded with similar requests. This motion had a good purpose. To Dr. Hackett's amendment he would not object; but it would show the North in a disadvantageous light. The Customs revenue would not appear in the return, and if it did the amount would be misleading, as much of this revenue was collected at Fremantle. If the department could not within a week or a few days supply the required information, they could not have a good system of bookkeeping.

HON. W. PATRICK (Central): What was the meaning of "revenue" in the amendment—revenue from public works or the total revenue from all sources? If the latter, the cost of procuring this information would be greater than that entailed by the other paragraphs.

HON. J. W. HACKETT: The amendment did not seek information as to Customs revenue, for that could not be given by the State Government. "Revenue" meant ordinary State revenue from such sources as land, harbours, and tramways.

HON. R. F. SHOLL: With the exception of meat, everything consumed by the pastoralists in the North was imported. This funny amendment would place the North at a disadvantage, because the Customs revenue, three-fourths of which was returned to the State by the Commonwealth, would not be shown.

Amendment passed; the motion as amended agreed to.

BILL—GOVERNMENT SAVINGS BANK.

Read a third time, and returned to the Assembly with eight amendments.

BILL—LEGAL PRACTITIONERS ACT AMENDMENT.

IN COMMITTEE.

Resumed from the previous day.

New Clause—Admission to practise:

Hon. M. L. Moss had moved that the following clause be added:—

Any person who shall have served the full term of five years as associate to any one of the Judges of the Supreme Court, or who shall have acted as Official Receiver in Bankruptcy for the full term of five years, and shall have passed all the examinations prescribed by the

principal Act and rules, may be admitted a practitioner.

THE COLONIAL SECRETARY, on behalf of the Government, could not accept the clause. The Bill had been introduced for the specific purpose of enabling managing clerks to be called to the bar under certain conditions; and as this was not a consolidating measure, any amendments outside the particular purpose of the Bill could not be accepted.

HON. R. F. SHOLL reiterated that while the principal Act remained, it would be unjust to legislate in the direction of obtaining for individuals facilities for admission to practise that were not afforded to other sections of the community. The good nature of the mover of this amendment had outrun his discretion.

HON. M. L. MOSS: The Committee should not accept the reason given by the Minister for declining all amendments, as it implied that members were precluded from moving specific amendments in a Government measure for amending the existing law. Every member was competent to move amendments which he thought desirable.

THE COLONIAL SECRETARY: The competency of members was not questioned. He had merely stated the intention of the Government in introducing the Bill.

HON. M. L. MOSS: Referring to Mr. Sholl's objection that the Bill was unfair because articled clerks received no pay, the late Mr. Justice Hensman had expressed the opinion that the particular rule of the Barristers' Board was *ultra vires*; but whether it was so or not, it was certainly an unjust rule, as it debarred the children of poor parents from entering the legal profession. The Committee should pass this amendment in order to emphasise the opinion that the particular rule of the Barristers' Board should be expunged. He had not moved the amendment out of good nature, nor without giving thought to the question. He was merely proceeding on the lines of the Legal Practitioners Act of Victoria, which had been the law in that State since 1885. The amendment merely affirmed that five years' service as a Judge's associate was equal to five years' service as an articled clerk; and before an associate could be eligible for admission, he had to pass all the examinations prescribed by the principal Act and by the rules. The amendment might also be made to apply to the Official Receiver in Bankruptcy, as five years' service in that capacity was twice as good a qualification for admission as five years' service under articles.

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

Ayes	...	...	15
Noes	...	...	6
Majority for	...	...	9

AYES.	NOES.
Hon. G. Bellingham	Hon. J. D. Connolly
Hon. H. Briggs	Hon. R. Laurie
Hon. T. F. O. Brimage	Hon. R. D. McKenzie
Hon. E. M. Clarke	Hon. C. A. Piesse
Hon. F. Connor	Hon. C. A. Piesse
Hon. J. T. Glowrey	Hon. J. W. Hackett (*Teller*).
Hon. V. Hamersley	
Hon. W. T. Loton	
Hon. M. L. Moss	
Hon. W. Patrick	
Hon. G. Randell	
Hon. J. A. Thomson	
Hon. Sir Ed. Wittenoom	
Hon. J. W. Wright	
Hon. J. W. Langsford (*Teller*).	

Question thus passed, the clause added.

New Clause—

HON. F. CONNOR moved that the following clause be added:—

> No person who has matriculated or graduated at or passed the matriculation examination of any university in Great Britain or Ireland or Australasia shall be required to pass the preliminary examination required by the rules framed under the principal Act to be passed by articled clerks.

This amendment did not affect anyone who was not an articled clerk; but an articled clerk who had already passed a matriculation examination should not be required, after the lapse of a number of years, to pass the preliminary qualifying examination, seeing that he had to pass two farther examinations before becoming eligible for admission. This did not affect every applicant who wished to come under the measure; but it affected the man who was an articled clerk. It would be rather a hardship for a man who had perhaps obtained very high degrees to have to grind up again and pass this examination, which was comparatively a school-boy's examination.

HON. J. W. HACKETT: We should exempt from such examination any man who had graduated or matriculated in any university in the United Kingdom or

Australasia. The word "candidate" would have to be altered to "person."

HON. M. L. MOSS: This amendment was not altogether necessary, although he did not wish to object to it. It appeared that the rules drafted by the Barristers' Board provided that certain examinations would be accepted by them in lieu of the preliminary examination prescribed by the rules. But unfortunately, by the wording of the rule, it was prescribed that those examinations in lieu of the preliminary examination must have been passed within two years of the application for admission as an articled clerk. The Barristers' Board, however, had never refused to exempt from such examination a person who had matriculated or graduated.

HON. F. CONNOR withdrew his amendment by leave, and then submitted the new clause with the alteration suggested by Dr. Hackett.

THE COLONIAL SECRETARY: This new clause was unnecessary. As pointed out by Mr. Moss, it was extremely unlikely that the Barristers' Board would ask people to pass a preliminary examination if they had matriculated or graduated at a university. He asked the hon. member to withdraw the new clause.

HON. F. CONNOR: It would not be fair to ask a man who had passed a university examination over two years previously to grind up for this preliminary examination. If Mr. Laurie's proposal were adopted, an applicant must pass the three examinations between the time of his application and his admission.

Clause put and passed.

Title—agreed to.

Bill reported with amendments; the report adopted.

BILL—BILLS OF SALE ACT AMENDMENT.

SECOND READING.

Debate resumed from the previous day.

HON. G. RANDELL (Metropolitan): It was my first intention to speak at some considerable length on this Bill; but circumstances have arisen which have altered my intention in that respect. I do not think it is necessary I should do so after the very able, comprehensive, drastic, and I think I may say unanswerable treatment of the Bill by Mr. Moss. If members have read the report of what he said, I think they must see that the reasons for rejecting the measure are wholly sufficient. In my opinion the persons who have interested themselves in obtaining from the Government consent to introduce the Bill have looked upon the question from only one side. I am prepared to assert that there is more than one side; there are more than two sides; and whilst it proposes some relief to merchants carrying on business in this country, it will inflict grievous hardship on many persons who have unfortunately to make bills of sale in different parts of the State. It has already been admitted that there is a defect in the Bill, and a promise was made to amend it. I believe other amendments are contemplated, and I think the measure has not received that degree of consideration which it ought to have received at the hands of members in another place. Notice of the registration of bills of sale has to be given in every case, not only by the man in debt but by the man not in debt, when he gives a bill of sale; and I think it is a severe hardship to inflict on any honest-minded man who for the first time is going to make a bill of sale for an advance.

THE COLONIAL SECRETARY: He has to register it now.

HON. G. RANDELL: Give notice, I say.

THE COLONIAL SECRETARY: What is the difference between giving notice and registering?

HON. G. RANDELL: He has to give 14 days' notice. As pointed out by Mr. Moss, one might want this money in double-quick time, if I may use the expression, and the case may be very urgent. I think he put the case very well when he stated that a man who was personally dependent upon the collection of his accounts, and found within a day or two of the time when a bill became due that his money did not come in, would hardly be able to collect the amount. I believe it is not an unusual thing in Perth at the present time for men to find at the end of the month that they are not able to collect their accounts as anticipated. I believe that prevails to a large extent at present; in fact I have heard complaints

that it is very difficult to get accounts collected; and in that case, one applies to a bank probably or to some financial institution to assist him for a short time. Before one can get that assistance, if this Bill passes into law he must give seven days' notice, or in some parts of the State 14 days' notice. It has been established beyond contradiction by Mr. Moss that notice cannot be given within a fortnight in remote parts of the State, such as the North-West. The method provided by the Bill is a cumbrous and vexatious way of accomplishing the object of those merchants and large traders who have moved to get this alteration made in the law; therefore I shall not be able to support the second reading. If merchants would conduct their business on proper lines, as I think they could, there would be no necessity to come to Parliament for relief from the position in which they now find themselves either because of over-confidence in the traders dealing with them, or through lack of ordinary prudence which should govern the mercantile community. In thinking over this matter I am reminded of what occurred in the boom time in this State, 1893 or thereabout; and the instance I am about to mention is only a specimen of what was taking place to a large extent throughout the State, and from which merchants in Perth and Fremantle were at that time suffering severely. A trader from the Eastern States—I think a grocer formerly in Broken Hill—sought to establish himself in that line of business in this city. He brought no funds, or very little; but he found no difficulty in obtaining credit from merchants, and in establishing a very respectable-looking business well stocked with goods. Shortly afterwards a person to whom he was well known came to the State also, and was astonished to find the grocer who had been "dead broke" in Broken Hill was here apparently flourishing in business; and he asked the grocer how it was managed. The man replied, "Oh, I had no trouble at all about starting business here; the merchants almost flung their goods at me and have taken my promissory notes; thus I have been able to establish myself in this position." A few months afterwards that man left Perth, and left a lot of creditors lamenting their lack of common sense and prudence which had caused the losses they had sustained. And that is the position we are coming to to-day. I am not prepared to assist the merchants in conducting business on lines like that; and I should certainly like to see the Bill thrown out, because I believe its effects would be too drastic. Even if the Bill has been introduced with the object of catching one rogue, a hundred honest men will have to suffer in consequence.

HON. Z. LANE: That man never came from Broken Hill. Your statement is absolutely untrue.

THE PRESIDENT: The hon. member should withdraw that remark.

HON. Z. LANE: I withdraw it; but I say that the statement is not correct. He is not speaking the truth.

THE PRESIDENT: The hon. member will have an opportunity of speaking afterwards, if he will reserve his comments now.

HON. G. RANDELL: I make the statement knowing it to be perfectly true. It is true not only in the one instance, but I am safe in saying the same kind of thing was absolutely true in dozens of instances. Many merchants and wholesale houses suffered severely through giving excessive credit at that time; but whether business is conducted in the same way now or not I do not know.

HON. R. D. MCKENZIE: Had this man given a bill of sale over his stock?

HON. G. RANDELL: It was common report all over the place that traders were failing one after another, and were leaving the State. That is an indication, to my mind, of the direction in which this impracticable Bill is tending; and it will be impossible to carry out its provision in the far North and other distant parts of the State. Its provisions are too drastic and too oppressive in regard to the honest business man. If the merchants would exercise greater common sense as to trusting those traders who are dealing with them, there need not be trouble of this kind in the future. As Mr. Moss pointed out, if a man wants to be a rogue and defraud his creditors, he can sell his goods and put the money in his pocket. What can be done in that case? I do not wish to labour this ques-

tion. I must place the responsibility for this Bill on the Government. If the measure becomes law it will be a great obstruction to the ordinary course of business, and there will be in a few years a strong agitation to have the Act repealed. I believe there are certain conditions obtaining on the goldfields which do not obtain in Perth—I do not speak with knowledge, but I am so informed—and that there is not the same remedy as in the coastal districts; but I do not know that our laws should be framed in the interests of any section of the community, no matter however important that section may be. It would be better if special legislation were introduced to deal with the necessity of that particular section, rather than bring in legislation the result of which will be to seriously affect business.

THE COLONIAL SECRETARY: That is your opinion of the Bill.

HON. G. RANDELL: That is my opinion. The Minister may have an opinion, but I do not think he has. At any rate, I should like to hear him reply to the remarks of Mr. Moss.

THE COLONIAL SECRETARY: They have been replied to twice already.

HON. G. RANDELL: I think the Minister will find it somewhat difficult to reply to the arguments which have been used against the Bill. My own opinion is that this legislation is in an entirely wrong direction, and unfortunately there is a great deal of that class of legislation which is restrictive, hampering, and vexatious in its operation, and which is felt very much now. If we go in for more of such legislation, I am certain that in a few years we will find an intolerable condition of affairs existing in this State. Therefore, it behoves members to carefully consider the question before consenting to introduce into the general law of this country restrictive legislation of this sort, which is not warranted. No arguments have been brought forward, in this House at any rate, to point the necessity for such stringent clauses, particularly Clause 3, which has been said to be the vital portion of the Bill. Attempts have been made to deal with the arguments used by Mr. Moss; but they have been exceedingly weak, and have failed to convince me as I hope they have failed to convince other members. I would be inclined to give every assistance for the legitimate protection of trade; but I do not think this Bill is legitimate protection to the trading community, and I shall oppose the second reading. As I have said, I do not intend to deal with this Bill at length, because circumstances have arisen which make it undesirable to do so; but I desire to express my concurrence in the views expressed by Mr. Moss with such clearness and force.

HON. J. T. GLOWREY (South): I have listened to the remarks of Mr. Randell with a great deal of interest; and he has painted a black picture of the dire results which will accrue if this Bill becomes law. I do not know whether I am right in presuming that his principal objection is to Clause 6, which renders it necessary to give notice of intention to register a bill of sale. I lived in Victoria for many years and had a good deal to do with bills of sale; and I can assure the House that were an attempt made in Victoria to repeal the clause making the giving of notice compulsory there would be an outcry throughout the whole of Victoria. The system has worked well there, and has proved a protection to all classes—to traders, commercial men, bankers, and everyone in business. If I thought this clause was going to produce the evil results which Mr. Randell anticipates, I should certainly vote with him; but I have had several years' experience, and have had a good deal to do with bills of sale, and I have found that this principle has worked well and in the interests of the whole of the trading community; therefore, I shall have pleasure in voting for the second reading. Doubtless there are some amendments required. Clause 9 particularly requires amendment in Subclause 3. An amendment in that should provide for perhaps a month's notice.

HON. R. LAURIE (West): I also intend supporting the second reading, and I may say at the outset that the Fremantle Chamber of Commerce are supporting the Bill. Mr. Moss stated that he had been asked by the chamber to support it, but that he felt he would be doing his duty if he opposed it. The chamber asked me to support the Bill, and to say that the seven days' notice is too short; they wish the period of notice to be 14 days. I made it my business to

interview members of the chamber, particularly members of the committee who deal in the matters affected by the Bill; and I could hear nothing which was not in support of the Bill, with one exception. The exception came from a firm which deals in pastoral business; and that firm pointed out the hardship which would be done to it and its clients in the North unless some exemption were made in the matter of sheep and cattle and other matters affecting the North-West. I have given notice of an amendment to add a new clause, and I think that when the new clause is added the measure will be acceptable. A few moments ago when another measure was before the House, it was pointed out that in Victoria certain things took place. An example was given whereby persons could get admitted to the legal profession, and because it was a good thing in Victoria in that instance it was used as an argument here. Now this Bill has also been useful in Victoria. I listened to Mr. Moss with a good deal of attention; there is no member in the House to whom I listen with greater respect, for he is always very clear and lucid with everything he takes in hand. But as far as this measure is concerned I have my opinions and Mr. Moss has his. I think the Bill will be useful to the mercantile community. At any rate it will not be harmful. If members were to ask the mercantile community their opinion on this Bill, they would say it will be useful. I support the measure before the House.

THE COLONIAL SECRETARY (in reply): It is not necessary to take up the time of the House in replying at any length to the attack made on the Bill by one particular member—I refer to Mr. Moss. That member was unnecessarily severe in criticising and opposing this Bill; in fact so severe and so anxious was he in his criticism that in some instances he went outside the Bill altogether. He said, if I remember aright, that it would be a great injustice to the people and a great indignity to many to ask them to advertise a notice of their intention to register a bill of sale. I ask members to look at the Bill. Is there any clause or any line in it that says that notice to register a bill of sale has to be advertised in any paper, *Gazette* or anything else? That was one of the arguments, that it would be a great injustice to ask business people to advertise their intention to register a bill of sale.

HON. G. RANDELL: I do not think the member said that.

THE COLONIAL SECRETARY: I understood the member to say it, but certainly he declared that he had a great knowledge of bills of sale, and I think he said that he had drawn up some tens of thousands of bills of sale since he had been in Western Australia. I do not quite know what has become of these bills of sale, because since that member has been in Western Australia there have not been tens of thousands of bills of sale. If the member had thought for one moment he would have known that he must have drawn something like six or eight bills of sale every working day since he has been in Western Australia. There is nothing in that in itself, but I mention it to show how exaggerated were the hon. member's arguments against the Bill when he spoke of drawing tens of thousands of bills of sale. The hon. member said he was strongly opposed to the measure, and that the Chamber of Commerce at Fremantle had seen him and that they had had no effect on him, in fact that he had made them waiver. But the hon. member took up a very strong position the day he spoke on the question: whether his opposition is as strong to-day and whether he will be found voting against the Bill now I cannot say. Mr. Moss and other members also emphasised the hardships that would be created under the Bill. I may say there is only one new feature in the Bill. Most are merely machinery clauses, and the principle of giving notice to register bills of sale does not now exist. Members have declared that it will be a hardship to traders living in distant parts of the State to register bills of sale. As Mr. Sommers mentioned, apart from bills of sale other than bills of sale over live stock and wool given in this State for districts lying north of Geraldton, during the past 12 months the number was only 16. I have a list of those bills, and if any member would like to look at them he can do so. There is notice of an amendment on the Notice Paper in the name of Mr. Laurie to the

effect that stock shall be exempt from the operation of the Bill. I shall accept that amendment. It seems to me there is some reason in the amendment, and the Bill may inflict some hardship on people living in distant parts of the State and on pastoralists, but in other respects it will inflict no hardship at all. This Bill is brought in partly at the request of the Chamber of Commerce—when I say partly I do not say the Government will bring in a Bill at the request of anybody if they do not see the justice of it themselves. One member said that I do not believe in the measure myself; but the time has not arrived and I hope it will never arrive when I shall father a Bill the principles of which I not approve of.

SIR EDWARD WITTENOOM: By Jove, I have done it. You will soon break your Cabinet up if you stick to that.

THE COLONIAL SECRETARY: I say on principles. There may be matters of detail, and the hon. member knows, for he has been a member of a Cabinet, that we must give way on details. But if I have to hold my position in the Cabinet by giving away my principles, my time in the Cabinet will be short. This Bill has been brought in partly at the request of the Chambers of Commerce of Western Australia, and members must admit that those constituting these chambers are the leading business people, in fact in most cases the whole of the business people of note in the towns, and their opinions ought to be listened to. Mr. Randell says that the measure would be a great hardship to business persons who want to give a bill of sale at once if their accounts do not come in quickly and they want to pay wages. It is extremely unlikely that a business man on a sound footing, when he found that his accounts did not come in at the end of the week and he was unable to meet his wages, would give a bill of sale.

HON. G. RANDELL: I did not say that.

THE COLONIAL SECRETARY: I understood the hon. member to say it. If a business man wants money in a hurry and his position is good, will he not at first go to his bank and lay his position before his banker? If his position is not good enough to go to his banker for a small advance, then he is not a man who should be allowed to give a bill of sale without giving his creditors notice. Such arguments prove the necessity of forcing traders to give the notice provided in this Bill. I have already said that the trading community want this Bill. They believe it will be a good thing. We have heard expressions from Mr. Sommers and Mr. McKenzie, who have had much business experience here and in Victoria, and they tell us that this measure has been in force in Victoria since 1872, and that it has worked very well indeed there. As to those outside the chambers of commerce, take the banks. All the banks have done business under the law in Victoria and Tasmania, and as far as we are able to learn, there has never been a word of complaint from the business people or from the banks. When making my opening remarks, I pointed out that the present system of allowing a man to give a bill of sale without giving notice to his creditors often created hardship. I want to give a few instances which have occurred in Perth during the last six months, and I do not wish to use names; I will simply use a letter. "B" had been trading previously to October the 12th and on that date he owed £75 15s., when he gave a bill of sale for £100 and interest at 20 per cent. The creditors proceeded to get judgment from the man, but all his goods had been covered by the bill of sale and they were unable to recover. They were advised by a solicitor that the bill of sale could not be upset. The creditors got nothing. I know it has been urged by members that if a bill of sale is wrongly given it can be upset, but it is extremely difficult as Mr. McKenzie correctly pointed out to upset a bill of sale. Here is another instance. "E" on the 17th September executed a bill of sale for over £10,000 over all the assets he was possessed of. On the 8th of the following month bankruptcy proceedings ensued. Application was made to the court for the purpose of setting aside the bill. In these proceedings the trustee was successful, but on appeal to the Full Court the decision was reversed. Creditors to the amount of £4,170 received practically nothing. I can, if necessary, quote dozens of similar cases that have occurred in Perth during the last six months. I do not think it

necessary to repeat what has been stated by Mr. Sommers as to the opinions of the Victorian Trade Protection Society, the Melbourne Chamber of Commerce, and the Tasmanian Chamber of Commerce as to the working of similar Acts in the Eastern States. Those bodies are unanimously of opinion that the measure works satisfactorily, and is of great benefit. I repeat, there is in this Bill absolutely nothing of which any honest man need be afraid. It will work no hardship; on the contrary, it will do great good. I trust that the House will pass the second reading. I am willing to consider any amendment proposed in Committee; and I will accept the one amendment tabled by Mr. Laurie, for I believe it to be fair and reasonable.

Question put and passed.

Bill read a second time.

BILL—PUBLIC WORKS ACT AMENDMENT.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) in moving the second reading said: This, as members will perceive, is a very short and formal Bill. It seeks to amend the Public Works Act 1902, by empowering the Government to carry a drain under private property, without compensation, provided of course no injury is done to the property. This provision is brought in because of the sewerage works now being constructed in the city of Perth. Under the existing Act, compensation had, in one instance, to be paid when a storm-water drain was put under a building, though absolutely no damage was done to the building or the land. Members will see by the clause that compensation will be paid if the surface of the overlying soil is disturbed, or the support of such surface is destroyed or injuriously affected by the construction of the work. This fully provides for compensation to the owner when there is any damage, even if the damage be very slight. I think it only just that the Government should be able, without compensation, to make a drain under private property, so long as no damage is done. The Bill provides also for bringing stock routes under the parent Act. The object is not to take the stock routes, as it were, from the Lands Department, but merely to constitute a stock route a public work or road under the Act for making or construction purposes. Clause 5 gives power to maintain bridges and culverts built before or after the passing of the parent Act. It is not quite clear in that Act whether such works can be maintained. I formally move that the Bill be now read a second time.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Acquisition of underground land:

HON. E. M. CLARKE: No depth was stated to which the Government might resume. They might take the land to three feet from the surface, and the owner might wish to sink 10 feet for a cellar.

THE COLONIAL SECRETARY: He would get compensation for the damage done.

HON. E. M. CLARKE: A clear definition was needed of "damage." A big underground drain, only four or five feet from the surface of the land, might do a serious injury to the block.

HON. W. PATRICK: Our towns were only in their infancy. Buildings 10 or 12 storeys high might in future be erected, and for these it might be necessary to sink 50 or 100 feet for foundations. Every year the value of property increased; and the Bill should provide that, while the Government might construct drains wherever necessary, the owner should be compensated if he subsequently required to sink to a greater depth than the drain or culvert under his land. In most cities there was no attempt to construct drains or pipeways anywhere but under public streets. The clause needed amendment.

THE COLONIAL SECRETARY: The member overlooked the fact that the parent Act provided fully for compensation for land resumed or injured.

HON. W. PATRICK: Clause 2 of the Bill was not clear. A drain might not, for several years, seriously affect the land through which it passed; but if in future the owner wished to build and to sink deeper than the drain, the clause would prevent his claiming any compensation, or his using the land, except on the surface. The clause seemed to involve

confiscation of land, from the surface downward.

HON. E. M. CLARKE: It was possible and probable that the owner of a vacant block in a main street might have a drain departmentally constructed a few feet from the surface. This would not be injurious at the time, but might be in future. He (Mr. Clarke) would not take the Minister's assurance that the clause was safe; for it was ambiguous as to what constituted confiscation. When the owner sought to build, the Government might contend that when the drain was constructed he did not claim compensation, and that therefore the matter was settled. Others members should express their views.

HON. G. RANDELL: Section 10 of the principal Act provided that any land required for a public work might be taken by the Government. The principal Act farther provided for compensation in cases where the Government took over any land; but the effect of the clause under review would be to limit the right of compensation. Mr. Clark had merely desired to have the point cleared up as to whether, in the event of a man's ground being seriously affected, although the injury might not be apparent on the surface as the result of any work undertaken by the Government, he would be entitled to compensation. The point should be made clearer.

THE COLONIAL SECRETARY: Subclause (*b*) provided that if the ground was injuriously affected by any Government works, the owner was entitled to compensation.

HON. M. L. MOSS: While the Government must have the right of entry on private properties for the purpose of carrying out necessary works, there were dangers connected with that right, and he would point out one. While land alienated in recent years was sold by the Crown only to a limited depth, and in the case of land on the goldfields only to a depth of 40 feet, yet land alienated under the old regulations—and this embraced the whole of Perth and Fremantle—was granted to the holder (under the old law) "to the depths below and the heights above," and the entry on or under a freehold grant under these new provisions would be an interference for which the holder would be entitled to compensation. The Bill provided that no compensation should be given unless the surface of the ground were disturbed or injuriously affected; but it might happen that when a drain was taken under a property, the ground apparently would not be injured either by disturbance of the surface or in other ways; yet after the expiration of the two years provided by Section 36 of the Public Works Act as the period within which claims for damages of this nature must be lodged, it might be found that the land had been so injuriously affected as to make it unable to bear the weight of a heavy building which the owner desired to erect. In such circumstances the owner would not, under this clause, be entitled to compensation.

THE COLONIAL SECRETARY agreed that property-owners should be compensated for damage done to their properties; and under the principal Act they were protected to the extent that they were entitled to compensation for damage done, and in the event of their property being compulsorily acquired by the Crown they were entitled to claim 10 per cent. above the market value of the property so acquired. The Bill did not propose to take away any of the rights of property-owners in this respect. All that was required of an owner who feared that his property might be injured by a drain or other work constructed in the land was that he should give notice of the injury, and it would then become the duty of the Works Department to so strengthen their works by arches or other means as to obviate the danger apprehended. If injury were done to the property after such notice was given, the owner would clearly be entitled to compensation.

HON. W. PATRICK: Under the Bill if passed, there would practically be no right to compensation. There was a danger that the Works Department might put a drain under what at the time might be vacant land, with the result that when later it was proposed to erect a building on that land, it might be found that the ground would not support the weight of the building. The recent experience of San Francisco had shown that buildings in the future would be those with steel frames; and in

order to permit of the support of the added weight, the foundations and excavations would need to be very deep.

At 6·30, the CHAIRMAN left the Chair.
At 7·30, Chair resumed.

HON. J. W. WRIGHT: The clause should be amended in some way. No case for compensation might arise for a considerable period, and after that a man would have no chance. There might be nothing showing on the surface, and one might have no cause for compensation for two or three years. It would be well to extend the time during which a claim might be made for compensation to five, seven, or even ten years.

THE COLONIAL SECRETARY: Surely two years would be time enough to lodge a claim, if the owner thought he was entitled to compensation. The clause did not say merely if the surface was disturbed, but also if it was injuriously affected. If a big drain were put in the property, no matter at what depth, the owner of the property could claim that the surface was injuriously affected, because if he built on the top of it afterwards the ground would give way.

HON. J. W. WRIGHT: It did not always give way over a drain.

THE COLONIAL SECRETARY: But a person could go before an assessor. He did not think that the mere fact of giving extended notice would do any good at all. As to whether land was vacant land or not, that did not matter.

HON. M. L. MOSS: If it was vacant land, it could not be injuriously affected.

THE COLONIAL SECRETARY: It had been argued by some member that an owner would not know about this, or make a complaint in time. He must know about it, because the principal Act provided that certain notices must be given to take the land, before the Government could enter upon it. In one case—Mount Street—the Government had had to pay £100 compensation, although there was no injury, and it was to save compensation where there was no damage that this Bill was introduced; otherwise the matter would cost the Government a lot of money unnecessarily. Surely a person should not be entitled to compensation unless some injury was done.

HON. M. L. MOSS: It was desirable that the Minister should report progress on this Bill with the idea of discussing this particular aspect of the question with those more directly responsible for the measure than he was. Doubtless under the Bill if any land was injuriously affected by the surface of the ground being broken, or injuriously affected in any other way at the time of the taking, one would be entitled to compensation under the provisions of the Public Works Act. It was obvious, however, that in the case of vacant land in the city of Perth where works were being carried on—and this Bill would not only apply to drainage works, but might apply to a railway line—it might be built upon in four or five years, but at the time of the taking or putting the work down there would be no injurious effect at all. Therefore at the time the owner could not get compensation.

THE COLONIAL SECRETARY: He could do so, if he could show that he would be injuriously affected.

HON. M. L. MOSS: At the time of the taking, and say up to two years afterwards, he would not be able to show that the surface of the ground was injuriously affected.

THE COLONIAL SECRETARY: Could he not call in an architect to say that if the ground were built on it would not stand?

HON. M. L. MOSS: What show before arbitrators would one have if he said, "I intend to put a 10 or 12-storey building on this piece of land, and therefore it is injuriously affected"? The Arbitration Court would say, "You must give us something more tangible than that." He desired to assist the Government in carrying the Bill, but he did not wish to see people's interests improperly affected.

THE COLONIAL SECRETARY: The clause said injuriously affected.

HON. M. L. MOSS: The Colonial Secretary took the subclause to mean that compensation should not be allowed unless the land was injuriously affected by the construction of the work. He (Mr. Moss) did not take the subclause to mean that. It meant unless the surface of the overlying soil was disturbed or the support of the surface was destroyed or the support of the surface was injuriously affected.

THE COLONIAL SECRETARY The legal advisers did not think that. They agreed with his interpretation.

HON. M. L. MOSS: If it meant that the land was not injured in an way, one could agree with the principle, but the Minister should ascertain from the Crown Law Department exactly the meaning of the provision. We could get an assurance from the Ministry that it was not intended to affect the person who might build, more than two years hence, on land now vacant. Evidently the Government considered it a case for compensation where, after the construction of the work, the surface was found to be insufficient to support a building; but that was, in his opinion, not the meaning of the clause. He thought it meant that if the support to the surface was injured there would be a claim up to two years. It must be remembered that as cities advanced the need for erecting taller buildings came about, so that it might be after the lapse of two years that the ground would be found insufficient to support a building.

THE COLONIAL SECRETARY: It was unreasonable to expect that the Government should have a claim hanging over for years.

HON. M. L. Moss: Would the Government extend the two years?

THE COLONIAL SECRETARY: No; that did not affect the clause. The clause was clear. If the land was injuriously affected compensation would be paid. It was for the owner to say how the land was injuriously affected. The Government desired to protect private owners with a just claim to be compensated; but as hon. members desired that progress should be reported, he moved accordingly.

Progress reported, and leave given to sit again.

BILL—EVIDENCE.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly), in moving the second reading, said: This is altogether a legal and technical measure, and if I do not make myself as clear on all the points as I should, it will be due to that fact rather than that I have not studied the measure. It is almost entirely a consolidation Bill, but it introduces some new provisions governing the law of evidence. At present there are no less than 21 local statutes containing the law of evidence, also two Commonwealth Acts and several Imperial Acts. The Bill now before the House repeals 19 local Acts and partly repeals two others. Of course we cannot deal with the Commonwealth or the Imperial Acts in this measure. As this is mostly a consolidating measure, I shall only briefly touch on the new features. The first clause that introduces any new principle is Subclause 4 of Clause 8. At present if an accused person gives evidence of his own character, or if his counsel or if he himself acting without counsel cross-examines any witness produced by the prosecution as to the character of the witness, then the prosecutor is entitled to offer evidence as to the character of the accused or as to the character of the person aspersed, as the case may be. It sometimes happens that more than one accused is tried at the same time, and one accused may give evidence that damages the character of his fellow accused. This Bill provides that the other accused shall have a right to examine the first accused as to his own character. That has not been provided for hitherto, and I think the provision is eminently fair and one that members will agree to. The next new clause is Clause 12, which deals with evidence in revenue cases. We take a certain power in revenue cases, that is actions taken for a breach of the Stamp Duty Act, or the Wines, Beer, and Spirit Sales Act. We follow the New Zealand Act. It is provided, in Subclause 4 of Clause 12, that if any witness answers questions so that in the opinion of the Judge he has made a true discovery, or what appears to the Judge to be a true discovery, the Judge may grant a certificate protecting him from being prosecuted. It is often necessary in revenue cases to obtain evidence from persons who are in a measure implicated. The same provision is made in regard to Customs prosecutions under the Federal Act. Of course we do not touch upon that in this Bill. Clauses 15, 16, and 17 are partly new, and relate to witnesses present at a trial being compelled to give evidence without a subpœna. This is taken from the New Zealand Act, and provides penalties for the non-attendance

of witnesses if they do not attend when called upon to do so without a subpœna. Clauses 25 and 26 are new, and I may say these provisions were recommended by the late Mr. Justice Fitzjames-Stephen in his *Digest of the Law of Evidence*, and were included in the Indian Act prepared by him when he was a member of the Legislative Council of India. They relate to impeaching the credibility of witnesses, and provide that a witness's character cannot be unnecessarily impeached or damaged. I shall read from the digest of that eminent jurist, as to what he proposes and as to what is our law at the present time. He says:—

> Witnesses have been compelled to answer such questions, though the matter suggested was irrelevant to the matter in issue, and though the answer was disgraceful to the witness; but it is submitted that the court has the right to exercise a discretion in such cases, and to refuse to compel such questions to be answered when the truth of the matter suggested would not, in the opinion of the court, affect the credibility of the witness as to the matter to which he is required to testify.

There is one striking example of this, and I think it took place in the famous Tichbourne case. The example is:—

> The question was whether A committed perjury in swearing that he was R.T. B deposed that he made tattoo marks on the arm of R.T. which at the time of the trial were not, and never had been, on the arm of A. B was asked and was compelled to answer the question whether, many years after the alleged tattooing and many years before the occasion on which he was examined, he committed adultery with the wife of one of his friends.

That is the law at the present time, that witnesses can be compelled to answer any question, no matter how infamous or damaging such question may be to the witness's character. I think the House will agree that this is not a desirable state of things, nor one which should be allowed to continue. Therefore this Bill seeks to amend it in the direction I have indicated. The late Mr. Justice Stephen in his digest farther says:—

> —a practice which is now common, and which never was more strikingly illustrated than in the case referred to in the illustration. But the practice which it represents is modern; and I submit that it requires the qualification suggested in the text. I shall not believe, unless and until it is so decided upon solemn argument, that by the law of England a person who is called to prove a minor fact, not really disputed, in a case of little importance, thereby exposes himself to having every transaction of his past life, however private, inquired into by persons who may wish to serve the basest purposes of fraud or revenge by doing so.

That is the position here to-day; and that is the position which this Bill seeks to remedy. The next clause that is new is Clause 27, a useful provision adopted in the New Zealand Act, and one which I think the House will fully endorse. It provides that any newspaper which publishes a question which has been disallowed by the court will be guilty of contempt of court. There is no doubt that a provision of this nature will be the most effective method of stamping out the asking of questions of this kind. It is undeniable that many such questions are asked, not with the object of throwing any light on the case, but simply for the purpose of discrediting a witness, knowing that by asking them the questions will be published in the papers. This is a very useful provision indeed, and one which I hope the House will endorse. The next provision that is new is contained in Clause 40. This clause relates to poisoning cases, wherein it is very difficult at times to prove intent. A person accused of poisoning may plead that the poisoning was accidental; and if he be a medical man he may say, "I administered poison by mistake; I thought it was something else." The clause provides that if that man has been charged previously with a similar offence, even though he may have been acquitted on that charge, the fact may be used in evidence against him that he administered poison previously. [Interjection by HON. M. L. MOSS.] Since this Bill was printed, the necessity for the clause has to a large extent, in fact almost wholly, disappeared. The latest copy of the *Law Times* to hand contains a ruling in England in a case which hon. members may have read, Rex *v.* Bond; it being ruled that evidence of this nature is admissible, not only in poisoning cases but in other cases also. Therefore when we come to the Committee stage of this Bill, I shall have no objection to deleting the clause. Perhaps it would be better to have the clause out of the Bill, now that we have this ruling of an English

court that this is admissible evidence, for the reason that this clause relates only to poisoning cases, whereas the ruling in the case Rex v. Bond relates to all cases. Clause 47 is merely an adoption from the English Act, and has been in force in England since 1872. Clause 48 is I think too severe; and I shall be willing when we come to the Committee stage, if members desire it, either to amend the clause or to strike it out. Although the provision has been in force in England for a number of years and has not worked any hardship, still I am inclined to think that in this country it would be rather severe. It provides, for instance, that if a boy stole an orange or some small article, and four or five years later he stole something else, his prior theft may be brought in evidence against him. A boy might be guilty of a boyish freak, and it is hardly fair that such evidence should be brought against him years later. Therefore I am quite willing to have this clause struck out. Clause 51 is new, and is adopted from the New Zealand Act. At the present time, strange to say (in theory at any rate, if not in practice) the only action which would lie in a case of seduction is not for the seducing of the girl, but for the loss of service that is sustained by the parent or guardian; that is to say, no action for damages would lie on the part of a father for the dishonour or disgrace of a daughter through being seduced; but an action for damages would lie for the loss of service sustained by the father or guardian. That is the law at the present time—at any rate it is the law in theory more than in practice, because if an action were brought for loss of service, I think the jury would consider, though they would have no legal right to do so, the dishonour and disgrace to the girl herself; but the action does only lie for loss of service. This is unjust, and the Bill proposes to permit an action to lie for the dishonour and disgrace to the girl herself; and this clause alters the law in this direction. Subclause 2 of that clause, I am afraid, also goes a little too far. I do not think that in its present wording the clause is at all practical, that you could actually get evidence of this kind; and in Committee I shall be willing to have that clause amended to make it more practical. The next clauses that are new are Clauses 73 and 74. These give power for the production of books of law not issued under the authority of the Government, for the purpose of guiding the court on questions contained in such books. At the present time the court is rather limited in the matter of text-books and statutes which must be admitted. For instance, in the giving of evidence as to the law of a foreign country, at the present time we cannot produce the text-books, or evidence books, or statutes of that country; but if a witness can prove what the law of the foreign country is, such evidence will be admissible. This clause will do away with that to a large extent, and these books, so long as it can be proved that they are books of evidence of the particular country, may be produced in the ordinary way, and used as our text-books and books of evidence are used. I will again quote from the *Digest of the Law of Evidence* by Mr. Justice Stephen:—

> When there is a question as to a foreign law, the opinions of experts who in their profession are acquainted with such law are the only admissible evidence thereof, though such experts may produce to the court books which they declare to be works of authority upon the foreign law in question, which books the court, having received all necessary explanations from the expert, may construe for itself.

That is the law in India at the present time, and that is the law it is proposed to enact in this clause. The next clauses that are at all new are Clauses 91 to 98, which provide that instead of a banker's books having to be taken to a court of law—which is sometimes a hardship—a proof of those books may be taken and admitted in court as evidence. Clauses 99 and 100 are somewhat new. They enable witnesses, if these so desire, to be sworn in the Scotch form. I do not know that there is anything particularly important in this; but it may be pleasing to people of that nation. I have no doubt there are a lot of people who approve of the Scotch form of swearing. I think it is that they hold up the right hand, and declare instead of kissing the book. There is no doubt this privilege will be pleasing to the people of that nation; and it may be pleasing to many others, because there is strong objection from a health point of view to kissing a bible which has

been in use for a number of years. The only remaining new clause is No. 103, which enables the evidence of children to be taken not necessarily on oath. The operation of the clause is limited. I do not think it is well that children should always be sworn; for some of them may not understand the nature of an oath. Those are the main provisions of the Bill. I trust I have explained it sufficiently to the House; and I think it will be appreciated by legal members, particularly by Mr. Moss. I understand that it is a measure which he when in office had partly prepared, and which I believe he intended to introduce.

MR. MOSS: It was prepared under my instructions.

THE COLONIAL SECRETARY: It was only prepared three weeks ago. I believe that the Bill will be generally appreciated by the legal profession. As I said at the opening, there are now 21 statutes governing the law of evidence. Of these the Bill will repeal 19, and will consolidate the law so that it may be contained in one Act. Some new principles are introduced, which I have briefly explained. If there are any other points with which the House would like to be acquainted, I shall be pleased, when in Committee, to afford the necessary information. I do not think that the new provisions are aught but improvements of the existing law, with the exception of one or two which I have indicated as perhaps going too far. Most of the new clauses are taken from the Indian Act, compiled by the eminent jurist to whom I have previously referred.

Question put and passed.

Bill read a second time.

BILL—MONEY-LENDERS.

IN COMMITTEE.

HON. M. L. Moss in charge of the Bill.

Clauses 1 to 4—agreed to.

Clause 5—Definition of money-lender:

HON. M. L. MOSS moved that Subclause (*a*) be struck out. The reasons were given on the second reading. In this State money-lending transactions were frequently conducted by pawnbrokers; hence it was necessary to bring them within the scope of the Bill.

Amendment passed; the clause as amended agreed to.

Clause 6—agreed to.

Title—agreed to.

Bill reported with an amendment; the report adopted.

ADJOURNMENT.

THE COLONIAL SECRETARY: At the request of several members who live at some distance and cannot conveniently attend the House for only one day in the week, I will ask the House to adjourn till Tuesday, the 11th September. A Bill which was expected but which has not yet been completed by the printer will meanwhile be posted to members. When the House reassembles there will be sufficient business to keep members fully engaged.

The House adjourned accordingly at 23 minutes past 8 o'clock, until Tuesday, the 11th September.

Legislative Assembly,

Wednesday, 29th August, 1906.

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

PRAYERS.

QUESTION—SEWERAGE RETICULATION, PERTH.

MR. H. BROWN asked the Minister for Works: When does he propose call-