Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 31 OCTOBER 1888

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LEGISLATIVE COUNCIL.

Wednesday, 31 *October*, 1888.

Messages from His Excellency the Administrator of the Government.—Bowen Railway.—Normanton Railway—Normanton to 13-Miles.—Day Dawn Block and Wyndham Gold Mining Company's Branch Line.—Message from the Legislative Assembly.—Chinese Immigration Restriction Bill—third reading. Marsupials Destruction Act Continuation Bill—second reading.—Queensland Permanent Trustee, Executor, and Finance Agency Company, Limited, Bill—second reading.—Message from the Legislative Assembly—Railways Bill.—Adjournment.

The PRESIDING CHAIRMAN took the chair at half-past 4 o'clock.

MESSAGES FROM HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT.

The MINISTER OF JUSTICE (Hon. A. J. Thynne) said: Hon. gentlemen,—I have received from His Excellency the Administrator of the Government two messages for delivery to the Presiding Chairman.

The PRESIDING CHAIRMAN announced the receipt of messages from His Excellency the Administrator of the Government, intimating that the Royal assent had been given to the Public Works Lands Resumption Bill, and the Day Dawn Block and Wyndham Company's, Limited, Railway Bill.

BOWEN RAILWAY.

The MINISTER OF JUSTICE, in moving—

1. That the plan, section, and book of reference of the proposed extension, section 2, of the Bowen railway, from 30 miles to 52 miles, in length 22 miles, as received by message from the Legislative Assembly on the 30th October, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members, viz.:—Mr. Aplin, Mr. Breutnall, Mr. Moreton, Mr. Smith, and the mover—

said: Hon. gentlemen,—It is due that I should correct a mistake which I made in answer to my hon. friend, the Hon. B. B. Moreton, when asked whether there would be any other railways brought forward this session. I confess that at that time I had overlooked the Bowen railway, and since then the Normanton railway has been brought forward, under circumstances which I need not explain. The Day Dawn Block and Wyndham Gold Mining Company's railway was under consideration when I made the statement.

Question put and passed.

NORMANTON RAILWAY.

NORMANTON TO 13-MILES.

The MINISTER OF JUSTICE, in moving—

1. That the plan, section, and book of reference of the railway from Normanton to 13-miles, being the permanent survey of the deviation of the Normanton-Cloncurry railway, approved by Parliament on 8th December, 1887, as received by message from the Legislative Assembly on 30th October, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members, viz.:—Mr. Aplin, Mr. Brentnall, Mr. Moreton, Mr. Smith, and the mover—

said: Hon. gentlemen,—This railway, I may state, has been constructed, but through circumstances which it is unnecessary for me to explain, the formal approval of the plans has not been carried through either House of Parliament.

Question put and passed.

DAY DAWN BLOCK AND WYNDHAM GOLD MINING COMPANY'S BRANCH LINE.

The MINISTER OF JUSTICE moved—

1. That the plan, section and book of reference of the Day Dawn Block and Wyndham Gold Mining Company's branch line at Charters Towers, in length 64 chains, as received by message from the Legislative Assembly on the 26th instant, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members, viz.:—Mr. Aplin, Mr. Brentnall, Mr. Moreton, Mr. Smith, and the mover.

The HON. B. B. MORETON said: Hon. gentlemen,—I wish to draw attention to the fact that the message from the Legislative Assembly is dated 26th instant, and only to-day have we had an intimation from the Administrator of the Government that the Bill dealing with the same matter has been assented to. I think myself that that message is illegal, if it is not unconstitutional, and I should like the ruling of the Presiding Chairman as to whether the message is legal at the present time, and whether it has not been sent to us before it had any legal right to be sent to us.

The MINISTER OF JUSTICE said: Hon. gentlemen,—The hon. gentleman has raised a question upon which I should like to express my views. He refers to a Bill, which is now the law of the land, and which simply gives power to the Day Dawn Block and Wyndham Gold Mining Company to construct a certain line of railway. In the Bill itself there is nothing said as to the mode in which approval is to be given. So far as this House is concerned, the plan, section, and book of reference are now on the table, and the House approves of the plans, the Act is complied with so far as this House is concerned. This is a line which might be constructed by the Crown, even without an Act of Parliament, but in this case the company bear all the expenditure. I submit that there is nothing to prevent us from going through the ordinary process of examining and approving of the plans and section. Certainly, their reference to a select committee makes no difference whatever, and there can be no ground for objection.

The PRESIDING CHAIRMAN said: We have no precedent, that I am aware of, by which a judgment might be formed, but I hold in my hand an Act received from the Administrator of the Government, which, I think, fully entitles the railway to be carried out under its conditions. The 2nd clause says:—

"Subject to the provisions of this Act, the company shall, and may with all convenient speed, construct in a substantial manner, and in accordance with plans and books of reference to be approved by Parliament, a branch line of railway within the proclaimed goldfield of Charters Towers to be connected with the Northern Railway."

I think, so far as it can be done, the Act has been complied with, and that the plan and specifications may come before the Committee as requested. When they have received the approval of the Committee, it strikes me that everything that is necessary will have been complied with.

Question put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, forwarding for the concurrence of the Council, a Bill to amend the Valuation Act of 1887.

On the motion of the MINISTER OF JUSTICE, the Bill was read a first time, and the second reading made an Order of the Day for to-morrow.

CHINESE IMMIGRATION RESTRICTION BILL.

THIRD READING.

On the motion of the MINISTER OF JUSTICE, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

MARSUPIALS DESTRUCTION ACT CONTINUATION BILL.

SECOND READING.

The MINISTER OF JUSTICE said: Hon. gentlemen,—In moving the first reading of the Bill yesterday, I shortly referred to its provisions and pointed out that it extends the Marsupials Destruction Acts until the 31st December, 1889, and thereafter until the end of the then next session of Parliament. Unless this Bill is passed, the laws providing for the destruction of marsupials will expire at the end of this session of Parliament, and I think hon. gentlemen are in the main agreed that it would not be a wise thing to allow the system, which has been in existence so long and which has proved of so much benefit to pastoralists, to cease to exist. The term of extension asked for is practically another year, or until the end of next year, and thereafter until the end of the then next session of Parliament. There is one slight alteration that has been made in the measure in the 2nd clause—namely, the inclusion of "bandicoots" within the term "marsupial," and providing that the rate payable on the scalps of bandicoots shall be 2d. Bandicoots are not destructive over the whole of the colony; they are chiefly destructive in the inside portions of the colony, or in the farming districts. In other parts they are practically unknown, or, at any rate, are so far unknown that the injury they do is not recognised or felt. However, in some portions of the colony this provision would be of great assistance to the agriculturists in getting rid of a nuisance and a destructive agent. The small rate of bonus payable in respect of the scalps of bandicoots is not a tax that will fall very heavily upon any portion of the community. I move that the Bill be read a second time.

The HON. B. B. MORETON said: Hon. gentlemen,—I do not rise with any intention of opposing the second reading of this Bill, although it is a Bill that I have myself never cordially agreed with. I must say that, in another place, and in an official capacity, I had to pass the present Act, although I did it against my own feelings in the matter. In the Bill before us there is an innovation upon the present Act—namely, the inclusion of bandicoots under the term "marsupial." I do not suppose it is within the province of this House to make any assessment to meet the increased burden put upon the ratepayers. I think it is those farmers who have less than fifty head of cattle who are not subject to any rate, and those are the men who will reap the benefit of receiving a bonus for the destruction of the bandicoots which destroy their crops. However, that is a small matter in itself, and therefore I do not wish to take exception to it, but I should have

liked, if it had been possible, to have seen the Act so amended that persons who have less than 500 head of stock should be eligible for seats on the marsupial boards. I think that that would be a desirable amendment upon the Act. I shall not put any obstruction in the way of passing the Bill now before us.

Question put and passed.

COMMITTEE.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I propose to proceed with this Bill in Committee, if no objection is raised, and dispose of it at once. I understand that no amendment is proposed to be made in it, and that there is no obstacle to our dealing with it at once. I, therefore, move that the Presiding Chairman leave the chair, and the House go into committee to consider the Bill.

Question put and passed.

Clauses 1 and 2 passed as printed.

On clause 3—"Short title"—

The HON. B. B. MORETON said he wished to know how long the Act would be in operation. The first clause said until the 31st December, 1889, and thereafter until the end of the then next session of Parliament—nearly two years.

The MINISTER OF JUSTICE said the intention was to hold the sessions of Parliament earlier in the year than had been the practice of late years, so that the Act would merely be in force for two years.

Clause put and passed.

On the motion of the MINISTER OF JUSTICE, the House resumed, and the ACTING CHAIRMAN reported the Bill without amendment.

The report was adopted, and, on the motion of the MINISTER OF JUSTICE, the third reading of the Bill was made an Order of the Day for to-morrow.

QUEENSLAND PERMANENT TRUSTEE, EXECUTOR, AND FINANCE AGENCY COMPANY, LIMITED, BILL.

SECOND READING.

The HON. P. MACPHERSON said: Hon. gentlemen,—When I moved the adjournment of the debate yesterday, I did not do so for the purpose of inflicting a speech upon the House; but simply because I considered that the Bill was of sufficient importance to warrant the discussion upon its second reading taking place before a fuller House than was present last evening. I say this Bill is a most important one, because it will be the precursor, I have no doubt, of similar measures, and because it confers powers and authorities which are at present, at least, unknown to law. It has always been admitted that a corporation or a company can be a trustee; but probate or administration cannot be granted as the law stands at present, except through the medium of persons known as syndics. It is in order to alter this state of things, and confer substantial powers, that the present Bill is introduced. I say for myself that, on reflection, I am thoroughly opposed to this class of legislation. But, although I am opposed to the Bill, and cannot vote for it, I will not divide the House upon the matter, for the simple reason that I am assured that there is a good, solid, substantial phalanx who are pledged to vote for it, and, therefore, anything I say against it will be simply waste of breath. I shall simply content myself with saying that the class of legislation shadowed forth in this Bill is not necessary in this colony, at any rate it has not been shown that it is necessary. If a man has any difficulty in appointing an executor or trustee, our statute law empowers him to appoint the Curator of Intestate Estates, who, to a certain extent, is therefore a public trustee. The Curator of Intestate Estates will be bound to act in the matter free of charge. In order to meet the objection of a person declining to act as trustee, because he will not be remunerated, the Settled Lands Act enables any trustee to receive commission from the court. Therefore, any trustee is entitled to a fair commission. If a similar provision had existed in Victoria, that Victorian Act which forms the foundation of this Bill would not have been passed. But I go further, and say that I believe this class of legislation will not be beneficial to the public. Other companies of a similar sort will inevitably follow this company as soon as this Act passes into law. The declared object of these companies is purely a mercenary one to make as much money out of estates as the shareholders possibly can. In a small community like this competition will ensue, and the shareholders, in spite of that competition, will expect dividends. That will lead to trust properties being rushed into the market at improper times. Let it be understood I make no reflection upon the gentlemen composing the board of directors of this company, because they are all excellent men; but I believe it may be quite possible that we may find directors in these companies by-and-by purchasing trust properties through the medium of agents or dummies. I have good reason to know of an instance of that which occurred in Brisbane in the past, in which an agent entrusted with the sale of property had himself purchased the property through a dummy, or what was vulgarly called a "buttoner." A good many of us may have heard of cases of that sort. Therefore, if any competition arises between companies of this sort, I have not the slightest doubt that there will be abundant scope for what I may simply designate as rascality. The hon. mover of this measure said the Bill would not be beneficial to the legal profession. I venture to differ from him. I think that these companies will employ gentlemen of my profession very extensively. In fact the hon. gentleman's remarks put something else into my head. It is most likely that a certain kind of canvasser, or insurance canvassers, will extend their business under the operation of Bills of this sort, and I can imagine one of those "drummers" calling upon a gentleman, and after asking his life, and possibly taking it—I mean on paper—suggesting that a gentleman who has been provident enough to insure his life, might also, looking at the uncertainty of life, make his will if he had not already done so. And I can fancy, for instance, this canvasser saying, "Well, you know there are such an awful lot of rogues in Brisbane, that it is far better for you, if you decide upon making your will, to employ one of these companies. I am an agent for a very respectable company—for the Q. P. T. E. and F. A. Company, Limited—a first-rate board, crack board; fine man Brentnall; clever man, old Brentnall, good business man; and then there is Turner: he is a first-rate man, a very cautious man—never does anything except after the most prayerful consideration. Then there is J. R. Dickson—very good man in business, Dickson; grand financier; could not put your property in better hands than Dickson's. Then there is Gregory—clever old cock, Gregory; quite an old man, but very clever—you cannot do better than trust him with your affairs. Our company's rates are very low, and you will be dead and will not feel them." I am only saying this to illustrate what the whole thing will come to. Companies of this sort are simply the outcome of the present company mania, which is

running its course for the benefit of brokers. I may possibly also add, for the benefit of attorneys, solicitors, and "guinea-pig" directors. I do not wish to detain the House; I do not intend to vote one way or the other in reference to the Bill; but there is one thing that I do not see about the Bill which may be pointed out. Perhaps I may be corrected by other hon. gentlemen, but I cannot see any provision for the criminal liability of directors. We all know that any trustee who misappropriates trust funds is liable to be put in the dock. It would be very hard in this Bill to put the directors of one of those companies in the dock; I am not referring to the present company of course; but that difficulty struck me. It is all very well to talk about swindling, and say that if a man swindles he is liable to be punished; but if a company swindles it cannot be punished, because it has neither body nor soul, and it is hard to say who is responsible under certain circumstances. I only hurriedly looked through the Bill, and, therefore, I may have overlooked something that some hon. member may draw the attention of the House to. I repeat that I object most decidedly to this class of legislation altogether, and believe that it will prove pernicious in its results, and most obnoxious in every way. The company is got up for share purposes, and will be worked for share purposes, and I believe it is capable of being worked with the basest purposes. That is all I have to say about it.

The MINISTER OF JUSTICE said: Hon. gentlemen,—Mr. Macpherson has made a very severe attack upon this Bill, and I am rather surprised that no hon. member has made any attempt to answer the objections which he has made. Speaking generally upon the question of the propriety of legislation of this kind, I have been for a long time of opinion that every person making a will, who may choose to appoint a company as his executor, ought to be at liberty to do so. He ought not to be restricted in the selection of a company as an executor, or as his personal representative, any more than he is restricted in his right of choosing an individual to act on his behalf. But while a testator should have a privilege given to him which he cannot freely exercise now, I, at the same time, object to any monopoly being given to any one company, or any one set of companies. I quite believe that it would be a judicious thing and a wise thing to have a general measure passed through Parliament, enabling testators to appoint companies as their executors whenever they may choose to do so, but I am very much afraid that the establishment of special companies with special privileges conferred upon them may lead to a great deal of difficulty. Now, we have had from the Legislative Assembly a copy of the report of the Select Committee appointed in the Assembly to examine into this Bill, and while speaking upon that, I think I may mention some word of comment upon the evident pains and attention which were paid by that committee to the consideration of the subject. The Bill, as it has been introduced here, is in a very much less objectionable form than when it was first presented to Parliament. But it seems to me that there is nothing to really let us know what the position of this company is, and what its objects are. It may be that this company is a land speculating company, or a share speculating company, or it may have objects in view which Parliament may consider almost entirely inconsistent with the functions of executors. As a rule, cautious people do not like to appoint as their executors men who are known to speculate, to gamble either in land or shares, or any other properties. They like to have cautious, careful men, who are known to exercise caution in avoiding risky speculations. I think it is an element in our consideration to see whether this company is to be judiciously entrusted with the powers that are sought, and to know what are the true objects for which the company is formed. An attempt has been made, and, I believe a *bonâ fide* attempt, by the select committee of the other House, to meet what is one of the great difficulties in connection with these Bills. I have not seen the articles of association of this company, and, therefore, I am not able to speak as to the objects for which it is formed; but, evidently, the committee to whom the Bill was referred, felt some doubt as to whether the estates which would be entrusted to the company, would be properly protected or not, and in section 22 of the Bill as attached to the report of the committee, there has been an addition made to the effect that all trust moneys received by the company shall be paid to separate accounts, and shall not be mixed with the general funds of the company. That shows at least a desire to remove a very great danger to the interests of the estates entrusted to the company. We have in our midst at the present time several large companies which have had their origin in building societies—building societies that carried on their business for a number of years contrary to law in attempting to exercise privileges which were entirely outside their charter, and in extending their business into a species of land-banking business. The evil had grown, and the fact of the evil growing to some extent showed that there was a material want to be supplied in connection with institutions of this character, and changes were made, and for a number of years large sums of money had been invested in these societies, and had been invested by the societies again, and nothing occurred to disturb the relations that existed. But no one who has studied the subject can look without great satisfaction at the escape which the people connected with these societies have had in having had a series of successful years. I am sure that if any disaster had occurred, no one could have foretold the amount of mischief that would have followed. Long before legislation was passed upon the subject the attention of several influential people was called to the matter. The Press in one instance I know of declined to publish an article relating to the subject. The *Brisbane Courier*, seeing the responsibility that would be involved by calling attention to the irregular manner in which the estates were being worked, instead of publishing it, took it upon itself to communicate with the principal men, and the result has been an alteration of the law. I can only say that when we have building societies established with such a strict charter, and carried on by so many different people—many people of the highest respectability and the highest standing in the place—but carried on in defiance of the powers vested in them, we may safely look upon it that companies formed under this Bill will afford no greater protection than any of those building societies. The select committee undoubtedly saw the danger in investigating the Bill, and made some slight effort to meet it. The clause was amended to say that trust moneys should be paid into separate accounts, but it did not say how they were to be invested. They might be invested in anything that the company chose to take the responsibility of. I have found nothing in the Bill which provides that funds entrusted to a company have to be invested in sound or solid investments. There is nothing to prevent a company from speculating in the wildest manner with the funds that are entrusted to them, and there is no penalty to fall upon the directors in punishment for either neglecting their work or misappropriatin funds. I can only say that if one fraud is detected

under this Bill, or under any similar Bill, it will not be a small fraud. It will be something that will give a shock to the public, and will create such a reaction as will lead to the greatest distrust being placed in these companies. I said at first that I believed that every testator ought to have the right, if he chooses, of appointing a company as his executor; and a company that expects privileges which are not conceded to other companies, and asks for what is, practically, a monopoly, ought to have its Bill passed in such a form as will show ample guarantee that no attempt can be made, without criminal consequences, to divert funds entrusted to them from their proper courses. While I have spoken strongly I believe upon the point, I will say something in another direction, and it is this: that this company in some cases does afford greater security than testators, or other people interested in estates, have now. There is a proposed deposit of money which is not required from ordinary testators. That is an important and useful recommendation in favour of the scheme, and it is one that ought to be part of a general scheme, compelling all companies who wish to go in for business of this character to carry on business in a strict and proper way. I think that care should be taken to exclude privileges from companies that are formed with speculative objects. The danger which I foresee is that the funds of a company like this may be invested upon securities which, perhaps, are not altogether speculative—securities which we might each and everyone of us think perfectly sound, and yet which a very slight circumstance might render practically useless, or render very small security indeed. While on this subject I would point out this circumstance that a large amount of money is being invested at the present time, to my own knowledge, by executors and private owners in deposits in a number of companies established in Brisbane, but that there is one prevailing defect in the system upon which all those companies are worked. They borrow money at call or at short periods, and almost invariably lend it at long periods. I think it is incumbent on members of this House, when we are considering important questions relating to financial matters, to call the attention of those who are concerned in estates to the risk in which these companies place themselves and the public, and those who trust them, by carrying on business which may lead to difficulties on a very slight financial crisis occurring in this place. I do not wish to go too deeply into that matter, but I wish to point out that in considering legislation of this kind we cannot be by any means too careful. When there is danger and ruin possible, it is our function to avoid it if we can. I stated in my opening remarks, and I repeat again, that a testator ought to be at liberty to appoint any company he chooses as his executor; but I object to any legislation which will give a monopoly to any particular company. I believe it would be better for all the companies; better for this company as well as the rest if the consideration of the Bill stood over until a general measure was passed giving powers to those companies—such as are given to insurance companies in other places—and then all the companies seeking to do business in this line would be put upon an equal footing, and the public would be able to make a selection from among them. This Bill has an inherent defect, in that every precaution is not taken to protect the funds of the company from the danger of embezzlement, misapplication, insecure investment, or any of the other incidents to which its funds are liable. Now, I would just add one other word. There is an attempt made here—an honest attempt, I believe—to secure the productive investment of money according to the form in the schedule—that is, that the managing director has to sign a declaration showing that the liability of the members is limited, what the capital of the company is, what the number of shares is, what the calls amount to, and the general liability of the company, but there is nothing to show any division between the trust funds which are entrusted to them as trust funds, and funds which they may acquire through other sources. I think these are matters which require very careful and great consideration. Personally I have not the least objection to Acts of this nature coming into force. I believe it would be a great advantage that people should have the power of making wills in favour of companies. I have known many instances in which testators have been in great difficulty in regard to the executors they would appoint, and I am sure no hon. gentleman in this House, who is supporting the Bill, has had a much larger experience in that respect than I have had. I know fully the difficulties that people have in selecting their executors, and that difficulty is all the greater amongst those who have not been, perhaps for many years, residing in one place; who have not had opportunities of forming those fast friendships which other men form in the course of years. These people experience great difficulty in selecting executors, and I quite believe that that very difficulty tempts people to postpone the making of their wills. I think, hon. gentlemen, I have spoken on this Bill as freely and as fully as I could do. There are a great many things to commend it, but, at the same time, I think there are great defects in it; and, on the whole, I consider that it would be far better that legislation should come in the shape of a general Act providing for the conduct of companies who wish to undertake this class of business.

The HON. F. T. BRENTNALL said: Hon. gentlemen,—I agree thoroughly with the opinion expressed by the Minister of Justice, that it would be very much better if a general Act were passed by the Legislature providing for all companies of this character. Until that is done, however, the separate companies must provide for themselves by the authority of the Legislature, in the way in which this company is endeavouring to do. The course we are pursuing here is the course which has been followed for the last eight or ten years in Victoria. Each company which has been formed, and there are several in existence, has had to work under a special Act, giving it power to act as executor and trustee. It is expressly provided in the articles of association that no transaction of a speculative character shall be undertaken by the company on its own account, and all business transacted by the company with its clients shall be paid for by commission. The paid-up capital of this company will be £25,000. £20,000 of that capital is to be invested in Government debentures under the provisions of this Bill—that is, double the amount which has ever been asked as a deposit or security by the Legislature of Victoria. £10,000 has been the amount deposited by each company in the colony of Victoria. But no objection has been made by this company to the larger amount. The company is quite prepared to make a deposit of £20,000, in order to give an additional security for its integrity. With only £5,000 margin it will not be possible for this company to indulge in any very extensive speculative business. It is not formed for the purpose of receiving loans and making speculative use of those loans. It is formed to do a commission business, and commission business only. The articles of association specially provide that the company shall not undertake business on any other terms and conditions than on commission, and the rates of commission will be those in ordinary

use. By the articles of association, as well as by the provisions of the Bill, the company is precluded from indulging in business of the speculative character to which reference has been made here this afternoon again and again. I think it was the Hon. Mr. Macpherson who made reference to the obligations of the company, and of the manager, and directors. But, so far as they are concerned, the Bill provides :—

"In every case where the company obtains probate or letters of administration, and also in every case where the company is appointed trustee, receiver, committee, or trustee in insolvency, the managing director, manager, acting manager, or secretary, as the case may be, and the directors of the company, shall be individually and collectively in their own proper persons responsible to the court, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process to all courts having jurisdiction in that behalf in case of the improper discharge of their duties or disobedience to the rules, orders, and decrees of such courts in the same manner and to the same extent as if such managing director, manager, acting manager, or secretary, as the case may be, and directors, had personally obtained probate or letters of administration, or been appointed trustee, receiver, committee, or trustee in insolvency."

I do not think there can be anything of much stronger binding force than that. Every director, as well as the manager, will be personally liable for the faithful discharge of the obligations which will devolve upon the company. Then with regard to the protection of the clients of the company, it is provided in clause 20 of the Bill that—

"Whenever probate or letters of administration shall be granted to the company, the company shall, within six calendar months next following, exhibit and cause to be filed in the office of the Registrar of the Supreme Court a full, true, and perfect inventory of the goods, chattels, and credits of the deceased, and shall, within fifteen months after having obtained such probate or administration, cause to be made and filed in the same office a full, true, and just account of its administration, which account shall be passed before a judge of the court."

In addition to that, once in six months the managing director is to make a declaration before a magistrate which will disclose the business of the company as it has been carried on in every branch. So that every member, every shareholder, and everybody having the remotest interest in the business of the company, will have an opportunity twice a year of knowing what the exact position of the company is. I do not think that safeguards could be more stringent or more carefully prepared and provided than they are in this Bill. It is not only expressly provided that separate accounts are to be kept of all trust business, but interest is to be credited at regular periods, and after the lapse of a certain time moneys unclaimed have to be lodged with the Colonial Treasurer, and to be left in his custody and care until the claimant shall turn up, or until by lapse of time something else has to be done with the money. Then, again, if any person interested in any estate committed to this company has reason, or thinks he has reason, to complain of negligence, or lack of performance of duty, he has power under this Bill to apply to the court, and the court may order a statement to be presented such as he may require. There has been such a thorough sifting of this Bill in another place, that I think all its weak points have been excised, and some very good strong points have been put into it at the suggestion of gentlemen who are eminently qualified to discuss, and to alter, and to amend a Bill of this character. I do not think it is necessary for me to say very much more about these safeguards, but I should like to point out that those gentlemen who undertake the responsibility of directorship in connection with this company are undertaking some rather serious responsibilities, for it is provided in subsection (*c*) of clause 22 that—

"No more than one pound per share shall be called up, except in the event of and for the purpose of the winding-up or dissolution of the company, and every member shall, in such event, be liable to contribute the unpaid balance of every share held by him ;"

and further—

"In such event every person who has been a director of the company at any time within the period of two years preceding the commencement of the winding-up shall be liable for the balance unpaid on every share which he may have transferred during such two years, in addition to his liability upon any shares held by him at the commencement of the winding-up in the event of the holder of such shares being unable to pay the said balance in full."

That is another very careful provision I think for the faithfulness of the directors. There will not be much chance for a director shuffling off his responsibilities, and not very much chance for the board of directors indulging in speculative business that would imperil the interests of the clients of the company. The specific object of the articles of association, as well as of this Bill, is to prevent anything of that kind, and to make the company such an one as any person, no matter how large the estate he might have to bequeath might be, could with confidence trust it to be dealt with by this company. It has been well enough observed here, and is recognised, I think generally, that there is an indisposition, becoming stronger and wider on the part of private individuals, to undertake the responsibilities of executorship and trusteeship. It often becomes an irksome task to perform those duties. It sometimes becomes almost an intolerable burden, because of the lack of time. A man's business may occupy the whole of his time, still he may, besides having his personal interests to attend to, have to attend to the interests of others whose business has been committed to his care by the death of someone whom he respected, and whose wishes he still endeavours to faithfully carry out. And not only so. While it may be a work of kindness, it is a work of kindness that is sometimes performed with too much apathy. It has been hinted—although I am thankful to say that so long as the present board of directors have the management of the company there need be no such fear—that one of these days this or some other company of a similar character may turn out to be of a rascally character. That is quite possible, but does that not apply to any business that is carried on under the sun? Has it not been within the experience of those hon. gentlemen in this Chamber who belong to the law, that sometimes private trustees have turned out dishonest?—not only apathetic in the performance of their duties, but not always trustworthy; and now and again we even hear of a solictor being struck off the roll of the court, because he has either misappropriated trust moneys or been untrue to the trust reposed in him by his clients. It is quite possible that there may at some future time occur a case in which there may be some unfaithfulness to trust with a public company, but if it be possible to protect the public, and to closely and firmly surround the company with bonds of security which an individual is not surrounded with, I think it is done now by the Bill before the House; and I am very glad to find that there is like to be no serious opposition to it. I think there is a growing feeling which we, all of us, should encourage. Indeed, I think we should feel—and I look at it in a cool and abstract way—that it would be better for us to commit the interests of our own families to a perpetual and permanent company of this kind than to an individual. There can be no death terminating the trust. There can be no necessity for the appointment of new trustees. The company goes

on in perpetuity, and so long as the shareholders take care that there is a respectable board of directors, my own firm conviction is that an estate would be safer in the hands of a company like this than in the hands of a private individual; for, however honest that private individual may be, he may still have a sufficient amount of his own business to attend to to prevent him efficiently attending to the duties of his trusteeship. But then supposing he was neither apathetic nor dishonest; supposing he was inclined to do the best he could, is not the judgment of one single individual in the investment of trust money much more liable to go astray, than the united judgment of seven or eight directors and a manager? And not only so; not only may a man injudiciously invest trust money so far as the interests of the persons interested may be concerned, but is he not also liable to the precise temptations to which reference has been made here this afternoon—to use this trust money for some grand speculative purpose that may tempt his cupidity? This company cannot indulge in speculative business. It is absolutely prohibited. Seeing that that is so, I think hon. gentlemen will agree with me, that it is desirable that power should be given to the company to enter, with as little delay as possible, upon the duties it intends to undertake. If I had no relation whatever to the company myself, I should not hesitate for one moment, as soon as this Bill becomes an Act, to make a new will, and leave the whole of my property to be administered by the company.

The HON. J. C. HEUSSLER said: Hon. gentlemen,—I have only a few words to say on this Bill. I have read it through with considerable attention, and I may say that it seems to have been framed with great care. I shall only refer to one portion of it, that dealing with executors. The previous speaker remarked that this company is a perpetual company. But I do not think that it is perpetual enough, and my own opinion is that the functions of executorship should rest with the State. We all form a portion of the State, and it should be the State's duty to take over those functions. Of course we cannot force individuals to make the State an executor, and undoubtedly a man may have a personal friend whom he wishes to administer for him. But I still think, with the last speaker, that it is a great burden on the individual, and that it is almost more than a man should be asked to do. I think that matters should be placed in this position that an individual should be able to go to the State and say, "It is not within my power to do justice to my friend's wishes, and I hand the matter over to you." We have already such an institution in the State, the Curator of Intestate Estates, which I did not know of, and which I believe most hon. gentlemen did not know of. I was not aware that the State was fully empowered to undertake the duties of executorship. But I should like to see a distinct branch of the business established. I should like a board established to supervise the business consisting, say, of three persons, the Auditor-General, the Under Colonial Secretary, and the Under Secretary to the Treasury. We always have those three officers with us, and they would form a perpetual board. I believe such a provision as that would be of special advantage in cases in which property was held in trust for minors as well as majors, when the estate could not be realised until the youngest child had come of age. And as a further proof of the desirableness of such a system, I might instance the numerous cases which have come before Parliament, and in which Parliament had been asked for authority to relax the provisions of the will in favour of the heirs. I know that my individual opinion, as a member of this honourable House, will not have very much weight on the question whether the State should step in in these cases; but, I repeat, there can be no perpetuity unless the State assumes these functions. I suppose this company is merely an experiment, and no doubt there seems some necessity for such a company being established.

Question—That the Bill be now read a second time—put and passed.

On the motion of the HON. A. C. GREGORY, the committal of the Bill was made an Order of the Day for to-morrow.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

RAILWAYS BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, intimating that the Assembly had agreed to the Council's amendments in the Railways Bill.

ADJOURNMENT.

The MINISTER OF JUSTICE said: Hon. gentlemen,—There being no further business for to-day, I move that this House do now adjourn.

Question put and passed.

The House adjourned at ten minutes past 6 o'clock.