As to the Spencer case they say:—

We are of opinion that this was an ordinary and fair business transaction with a lady well capable of looking after and protecting her own interests. Mr. Shaw, a clerk in the office of the late Mr. George Walpole Leake, obtained an agreement for a lease of 14 years from Mrs. Spencer, at a rental of £150 a year, with the right of purchase at £2,000. After so obtaining it, he prevailed upon Mr. Parker to take a share, and the lease was subsequently executed to Shaw and Parker. Mr. Parker had not, at that time, seen Mrs. Spencer's title deeds, but Mr. Shaw informed him that she had power to give the right to purchase. A considerable sum was spent by the lessors in connection with the property, and the rentals they received were barely sufficient to pay the rental due to Mrs. Spencer under the lease. The speculation did not turn out a satisfactory one for the lessors, and upon the bankruptcy of Mr. Shaw, Mr. Parker joined the trustee in a sale by auction of the lease, which was purchased by Messrs. Sands & McDougall for £475. Subsequently, proceedings were taken by Mr. Charles Spencer against Messrs. Sands & McDougall for the recovery of the property, which, after much litigation, he succeeded in recovering. Mr. Parker was retained as counsel by Messrs. James & Darbyshire in the first action, that firm being the solicitors for Messrs. Sands & McDougall. Mr. Parker was not engaged in the second trial. No offer was made on behalf of Messrs. Parker & Parker of any sum to settle the action, nor were they in any way connected with the matter.

As to the Garden Island case they say:—

We are of opinion that Mr. Parker was in no way connected with the alleged misrepresentation in connection with the sale of this property. Misrepresentations, if any, were made by one James Grave, without Mr. Parker's knowledge or consent. We are, therefore, of opinion that the evidence does not in any way support the allegations in the article, and that Mr. Parker's actions were honourable throughout this transaction.

As to the Sloan case they say:—

We regret that we were unable to obtain the evidence of William and Hugh Sloan. The former left the colony after the issue of the Commission, while the latter was away in the country beyond Carnarvon, and the notification that his presence would be required was sent to him by telegram. The telegraph authorities replied that the message was undelivered, and could not be forwarded, except by mail, until the 1st of November.

We had, however, an opportunity of reading the records of the Supreme Court relating to the action brought by William Sloan to set aside the transfer of his property, the interrogatories administered, and the answers given by Grave and Smith, and also the answer of William Sloan upon his examination in bankruptcy. There were also the affidavits of S. H. Parker and James Grave, William Sloan, and others.

We are of opinion that these records and documents, together with the oral evidence received by us, do not support the charges and innuendoes made against Mr. Justice Parker in this part of the article.

It will be seen from the foregoing that we are of opinion that none of the charges made against Mr. Justice Parker have been substantiated.

That is the report. (General applause.)

ADJOURNMENT.

The House adjourned at 10·45, until the next Tuesday.

# Legislative Council,

*Tuesday, 11th November, 1902.*



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

PRAYERS.

PAPERS PRESENTED.

By the MINISTER FOR LANDS: 1, By-laws of the Municipality of Albany. 2, New regulations and schedule under Mineral Lands Act.

Ordered: To lie on the table.

QUESTION—RAILWAY ENGINES AND SPARK ARRESTERS.

HON. R. G. BURGES asked the Minister for Lands: If the Government intends to use Collie coal on the locomotives, in the dry districts of the State during the summer months.

THE MINISTER FOR LANDS replied: There is no intention to discontinue the use of Collie coal; but spark arresters have been provided.

## LEAVE OF ABSENCE.

On motion by HON. M. L. MOSS, leave of absence for one fortnight granted to Hon. R. Laurie, on the ground of urgent private business.

## HONOUR TO A MEMBER—HON. J. W. HACKETT.

THE MINISTER FOR LANDS (Hon. A. Jameson): I should like to take this opportunity, before the business of the House is commenced, on behalf of the members of the House to express my appreciation of the very high honour which has been conferred on one of our members, Dr. Hackett, the senior member of this House who has been here longer than any other member. Dr. Hackett has taken a very active part in this State, as everyone knows, not only in regard to legislation but in public matters generally, in questions that affect the health and the real interests of the people. We saw this morning that Dr. Hackett had a high honour conferred upon him, and it was a pleasure to everyone throughout the State to know that the honour was conferred on one who so well deserved it. I understand that Dr. Hackett has not thought fit to accept this honour. That is entirely a matter for himself to decide, and one which we have nothing whatever to do with. But I would like to accentuate the fact that the honour is one to the House, because it has been conferred on the senior member of this House. I speak feelingly for every member of the House when I say that I heartily congratulate the hon. member on the very high honour which has been conferred on him. I move "That this House places on record its high appreciation of the honour conferred on the Hon. Dr. Hackett by His Majesty the King."

HON. G. RANDELL (Metropolitan): I have much pleasure in seconding the motion and indorsing the remarks which have fallen from the Minister for Lands (Hon. A. Jameson). Dr. Hackett deserves well of this country and of this House for the important part he has taken in our deliberations, and for the great interest and intelligence which he has brought to bear on all public questions. On many questions we should have been at a loss for experience and knowledge without the hon. member. I hope Dr. Hackett will yet see his way to accept the honour which has been conferred on him by His Majesty the King. It is an honour which is deserved by years of public service, not only in the House but outside of it, in connection with institutions for the education and recreation of the people: I refer especially to the Zoological Gardens and the King's Park. I heartily indorse what has fallen from the leader of the House.

THE PRESIDENT: Before formally putting the motion, I should also like to join with the leader of the House and Mr. Randell in expressing my great pleasure at the honour that has been conferred on Dr. Hackett by His Majesty the King. I have especial great pleasure in joining in this motion, because at the time responsible government was granted the then Governor, Sir William Robinson, placed at the disposal of the Forrest Ministry the gift of three seats in the Legislative Council—then a nominee House—and the first person chosen to be a member of the Legislative Council, nominated by the Forrest Ministry, was Dr. Hackett. As Dr. Jameson has remarked, Dr. Hackett—leaving myself out of the question—is the senior member of the House. No one in the State has done more than Dr. Hackett has to foster in every way undertakings that have for their object the uplifting of the social standard of the people. As Mr. Randell has said, we have only to turn to the Zoological Gardens and the King's Park trust (of which Dr. Hackett has had the bulk of the work to do during the absence of Sir John Forrest) to acknowledge this. Dr. Hackett is also an active member of the Victoria Library trust, the Museum, and the Perth High School. When I mention just these few institutions with which Dr. Hackett has been associated, they are quite sufficient to entitle him to the great honour His Majesty has been pleased to confer upon him. I do hope Dr. Hackett will reconsider the decision which he has arrived at and will accept the honour, for it is not only an honour to himself but one which we as members of the House recognise as a great honour conferred on

the Legislative Council, because it is conferred on one of its members. I will now formally put the motion.

Question put and passed.

THE PRESIDENT (addressing Dr. Hackett) said: I have to convey to you the congratulations of this House on the honour His Majesty the King has been pleased to confer on you. The resolution just passed will be put on record. (General applause.)

HON. J. W. HACKETT: I most deeply thank my friends—yourself Mr. President, Dr. Jameson, and Mr. Randell, friends of very many years' standing—for the words you have just used in regard to the very poor services I have been able to render my adopted country. This is not the time for laboured periods or for lengthened oratory. All I can say is, and what I say is from the heart, that never in the course of my public career have I listened to words more grateful to me than those which have fallen from the three speakers I have named, and which have been so warmly indorsed by the whole House. With regard to those works to which you, Mr. President, have referred, I may truly assure the House that while they have been to some extent works of toil, they have been works of pleasure also; and I have received my reward amply, tenfold over, in perceiving the enjoyment which the Zoological Gardens and the King's Park, to take two out of those you named, have given the people, especially in their holidays. Every appearance of pleasure in the face of man, woman, or child has found an echo in my own heart; and for one's services that is the truest reward a man can receive. I have thought it advisable, for reasons with which it would be unfitting for me to trouble the House on this occasion, to ask His Majesty to allow me not to accept this honour; but whether or not His Majesty accede to that prayer, I can assure you that I feel the high honour which was tendered me, and that honour has been raised to the highest pitch by the manner in which its announcement has been received by my friends in this House and out of it.

## FREMANTLE HARBOUR TRUST BILL.

### THIRD READING.

HON. M. L. MOSS (Minister) moved that the Bill be now read a third time.

HON. S. J. HAYNES (South-East) moved that the Bill be recommitted for the purpose of reinserting Subclause 3 of Clause 4. To make members of Parliament commissioners under the Bill would be highly dangerous in principle, and in the hands of a corrupt Government might be an instrument of great evil. No doubt the subclause, if reinserted, would limit the choice of commissioners and prevent the services of good men being availed of, especially those of one member of Parliament who was eminently qualified for the position and was a man of undoubted integrity and uprightness; but the objection was to the principle.

HON. M. L. MOSS: In ordinary circumstances he would not oppose the motion to recommit; but the object now sought could be obtained by discussing the motion. Why should members of Parliament stamp themselves as untrustworthy persons, or insinuate that the Government would be so corrupt as for political purposes to make members of Parliament harbour commissioners? In this small community the services of the best men procurable should be available, whether in or out of Parliament. He opposed the amendment.

Amendment negatived and the question passed.

Bill read a third time, and *passed*.

## AGRICULTURAL BANK ACT AMENDMENT BILL.

Read a third time, and *passed*.

## ROADS AND STREETS CLOSURE BILL.

### IN COMMITTEE.

The MINISTER FOR LANDS in charge.

Clause 1—agreed to.

Schedule:

HON. J. W. HACKETT: Had the local authorities been consulted on all the closures, and did they approve?

THE MINISTER FOR LANDS: Only one local body disapproved. The closure of a road at Wagin had been applied for by the Inspector General of Schools, so that it might be incorporated with a school site. The objection was unreasonable, as would appear from the map. The road passed through the centre of the proposed site, the school being on one side and a reserve on the other; and it

was desirable to throw the whole into one block.

HON. C. A. PIESSE: The closure was necessary. The road was only a small right-of-way, originally intended, he believed, for sanitary purposes; and if it was not closed a valuable school site would be spoilt.

HON. R. G. BURGES: Why then did not the local body consent, and why should they be ignored? The hon. member did not show that the local bodies had consented to the road being taken from them. He had objected before on this matter and would object again.

HON. C. A. PIESSE: There was no local body that he knew of except the health board, and he did not know if that body objected.

THE MINISTER FOR LANDS moved that the following be added to the schedule:-

*In the Town of Fremantle.*—All that portion of Phillimore Street bounded on the eastward by Fremantle Town Lot 55, on the southward by Lot 39, and on the north-westward by a line joining the north-west corners of Lots 55 and 39.

*In the Municipality of North Fremantle.*—All that portion of Napier Street, one chain wide, the western side of which starts at a point situate about 10° 5′ 75$\frac{5}{10}$ links from the north-east corner of North Fremantle Town Lot 59 and extends 4° 45′ 4 chains 8 links; thence 1° 28′ 4 chains 68 links; thence 5° 13′ 16 chains 70 links; thence 345° 53′ 13 chains 10 links, and thence 7° 6′ about 2 chains.

Amendment passed; the schedule as amended agreed to.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

## BUSH FIRES ACT AMENDMENT BILL.

### SECOND READING.

Resumed from the 6th November.

HON. C. A. PIESSE (South-East): I would like to point out to the Minister for Lands that the amendment which he proposes to insert when the Bill is in Committee will not meet the case. It will be as conflicting as the clause it is suggested to replace. We want to provide that during certain months burning shall be totally prohibited. I think every district desires that during December and January no fire shall be allowed to be lighted; but the difficulty will not be overcome until we have boards appointed to deal with this matter in the different districts, for in the South-West district people do not want to burn during the months of December and January, whereas in the Eastern district people do not want to burn in November, neither they do not want to burn during the month of February. Take the district I have the honour to represent. We could burn with safety at the present time, and for another month, but we are prohibited by the Act from doing so. That shows the need for the appointment of boards for the various districts to deal with this matter. We can burn off in March in our district with safety, while in the Eastern districts they dare not burn during that month. The months of November, December, January, and February might be prohibited months. That portion of the country which Dr. Hackett represented would be injured if such a provision were inserted. We could include these months with safety in regard to the Eastern districts, but with injustice to other districts. Boards should be appointed to regulate the time during which burning off can be carried on.

HON. R. G. BURGES: That will never do.

HON. C. A. PIESSE: Then what are we going to do. Surely the people in the different localities ought to be the best judges as to what months are the most suitable for them to burn off in. I come from a part of the country where the wheat is just coming into the ear, while the hon. member comes from a dry country where they are about stripping. At the present time the districts cannot regulate the time for burning off because the Act states when the burning off is to take place and when it is not. In the district I represent we have lost a valuable month for burning off.

HON. R. G. BURGES: This is an exceptional season.

HON. C. A. PIESSE: We are retarding settlement in the South-Western portion of the country because there is no necessity to prohibit burning during the present month. As far as that district is concerned something will have to be done in this matter. To the ordinary mind the amendment which the Minister for Lands proposes to insert conveys the impression that a person can burn at any time from 1st October to the

30th April. [HON. R. G. BURGES: Move an amendment.] The hon. member has tried since the last sitting to frame an amendment himself. It will require a score of clauses to deal with the subject properly.

HON. R. G. BURGES: Give March to October, and say unless otherwise provided by proclamation; that will meet the case.

HON. C. A. PIESSE: We must have boards.

HON. R. G. BURGES: I will not agree to boards.

HON. C. A. PIESSE: I hope I have made myself understood. The amendment on the Notice Paper will convey to people that they can burn off at any time from the 1st October to the 30th April in any year under certain conditions; and the conditions are that the person desiring to burn off shall give certain notice to his neighbour so that he shall have a man in attendance. We know regulations are framed and appear in the *Government Gazette*, but no one sees them. I can give an instance which has occurred during last month of a regulation which was gazetted which did damage to the country. It was a regulation affecting people with stock. We found an inspector in the district armed with an authority which he exercised very harshly, and we found that authority had existed only from the 27th of last month. This inspector acted under a regulation, and did certain things. People were liable under this regulation, which had been published in the *Government Gazette*, but no one had seen the regulation: the same thing may happen in this case. Something will have to be done or there will be a continuation of this trouble. The district which I represent this year is in splendid condition, but one fire might destroy a million acres of beautiful feed. Grass is standing so high that it is like a crop of hay. If boards are appointed people will know exactly the month when they are not to burn and when they are allowed to burn off.

HON. E. McLARTY (South-West): I am of opinion there should be at least three months in the year during which burning should be prohibited. I do not think there will be any hardship to settlers in the Southern portion of the State if burning is prohibited duri November, December, January, a February. This is an exceptional seas in the country, but taking the distri generally it is not safe after the November to light a fire. As to havi one man in attendance—[HON. R. BURGES: It is a farce]—it is a far Where there is plenty of grass and it is hig 20 men could not prevent a fire spreadi It would perhaps be better to cause injury to one man than to damage t crops of twenty settlers. The Bill shou prevent any person burning off duri the time the crops are ripening and un they have been harvested and gather in. I would rather extend the Bill February than run the risk, where cro are ripening in the fields, of damage bei done, for it does not matter how ma persons are in attendance if a fire is w alight it is impossible to stop it. I shou say during three months, Novemb December, and January, there should a total prohibition from burning.

HON. C. A. PIESSE: Make it the midd of November.

HON. E. McLARTY: I was thinki about suggesting the 10th Novemb The country is green until then. T Eastern districts are so much earlier th South-Western districts. If such a pr vision is made to apply all over t country the 10th November would rather late for the Eastern distric Therefore to make the period from t 1st November to the middle of Janua or February would be the only safe meth of protecting settlers.

THE MINISTER FOR LANDS ( reply): I should like to point out that t Bill as it stands is perfectly clear wh carefully looked into, but on a superfici observation a little confusing. If we a to strike out the proviso for one man be in attendance and are to substitu three men, the question arises whether is necessary to amend the existing Act all. The only effect of the amendme I have on the Notice Paper is to mal the intention more clear, and not in a way to alter it. I should like again draw attention to the real position. Section 5 of the principal Act—

The Governor may, by notice in the *Gaze* declare the times of the year during which shall be unlawful to set fire to the bu within any district or part of the State me

tioned in the notice. A copy of the *Gazette* containing any such notice shall be received in all courts of justice and elsewhere, etc.

Such proclamations have been made; one was gazetted this year, on the 1st October, prescribing the periods in which burning is unlawful. In the Upper Capel roads board district it is unlawful to burn from the 1st December till the 15th March. In all magisterial districts south of the Victoria district, these not being enumerated, it is unlawful to burn from the 1st October to the 1st March, inclusive. It will be observed there is a great difference in the periods, which must be made movable, in some measure according to the seasons and to the districts also. There are certain districts where it is advisable to burn in October. The prohibitions are made at the request of the local bodies; for our country is so vast in extent that if we lay down precisely in any Bill the months in which persons may not burn off their land, great hardship may result owing to the varying seasons and the different necessities of each district. It is clear under Section 5 that the Governor may proclaim the times when it is advisable to allow burning. Section 7 of the principal Act states that any person burning between October and April must burn under certain conditions.

HON. R. G. BURGES: That is what is wanted.

THE MINISTER FOR LANDS: This amendment on the Notice Paper is only to make that clear. Instead of saying no person shall burn at any time during the months of October to April, both inclusive, we say that any person lawfully burning any part of the bush between the 1st day of October and the 30th day of April in any year shall do it under the conditions laid down in paragraphs (*a*) and (*b*). It is a hardship in very small holdings that three men must be in attendance to make burning off lawful; it seems a great hardship that the attendance of one man should not be sufficient; hence we reduce the number to one, and provide that four days' notice must be given the adjoining holders. Those are the conditions required for burning off from October to April, but the actual period during which burning is permitted will be fixed by proclamation under Section 5 of the principal Act. I do not think it possible to make the law much clearer than it will be if we pass my proposed amendment.

HON. W. T. LOTON (East): The amendment on the Notice Paper to reduce the number of men in attendance at a fire during certain times of the year will, if carried, be likely to result in practically the whole of the country in the Central and Eastern Divisions becoming liable to be burnt out. To my mind the only satisfactory method of dealing with bush fires is to have certain prohibited months in which there shall be no burning whatever.

HON. R. G. BURGES: And those months should be specified in the Act.

HON. W. T. LOTON: They should be arranged to suit the districts. The difficulty is in arranging the districts; but I think that in the Central Division, which extends as far as the Murchison, and in the Eastern Division, there should, in order to be on the safe side, be no burning allowed between the beginning of November and the end of February—four months at the very least. Then farther south and on the coast we may perhaps extend the time. Possibly members living in those districts know the conditions better than I; but I speak most definitely with regard to the Central and the Eastern Divisions of this country. In them there should be no burning off under any conditions whatever from the 1st November till the end of February; and that is the kind of amendment we need to the Bush Fires Act. But to pass the amendment on the Notice Paper is simply to say to the people: "You are allowed to burn out the Central and the Eastern Districts." The protection would not be sufficient were even 50 men in attendance.

Question passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Amendment of 1 and 2 Edward VII., No. 18, Sec. 7:

THE MINISTER FOR LANDS moved that the clause be struck out, and the following inserted:—

Section seven of the Bush Fires Act, 1902, is repealed, and the following inserted in lieu thereof: "7. Any person lawfully burning any

part of the bush between the first day of October and the thirtieth day of April in any year—(*a.*) Shall deliver or cause to be delivered to each occupier of all adjoining lands four days' previous notice in writing of such intention, and (*b.*) Shall keep at least one man in attendance until all grass, stubble, or scrub has been burnt, to prevent such fire extending beyond the limit of the land occupied by him. Every person acting contrary to this section shall be liable to a penalty not exceeding Fifty pounds."

HON. R. G. BURGES moved that "lawfully" be struck out. People understood that they could burn off between the 1st October and 30th April. Who would see these proclamations in the *Gazette?* If Section 7 were amended as proposed, bush fires would be raging throughout the country, because people would read the Act, not the proclamations. With one hand the Government tried to settle the country, and with the other to burn out settlers.

THE MINISTER FOR LANDS: If the clause were to stand, the word "lawfully," should be retained; else it would appear as if all times were lawful, irrespective of Section 5 of the principal Act and the proclamation.

HON. C. A. PIESSE: If the Minister would take the trouble to frame a new clause stating the months during which burning off would be prohibited, it would save much trouble. It was a farce to say one man should be in attendance while the burning off was in progress. As Mr. Loton had pointed out, it was no use having three men or 153 men sometimes to stop a fire—they could not do it. A prohibition during certain months when it was dangerous to burn off should be inserted in the Bill. People in the various districts of the State were prepared to make sacrifices. It was not necessary to provide that the prohibition should be from the 1st of November; it could be from the 10th of November to, say, the 10th of February, during which time it would not be right to light a fire under any circumstances whatever. If that were done, the Governor then, under Clause 5, still had the power in certain districts to say that a fire should not be lighted even in the month of October. He suggested that the amendment be amended by providing that the lighting of fires should be prohibited from the 10th of November to 10th of February.

HON. C. SOMMERS (South): An amendment as suggested by Mr. Loton and Mr. Piesse would meet the case. The provision which made it obligatory to have three men in attendance while burning off was necessary. If the Bill provided that only one man should be present, then it might just as well be provided that no one should be in attendance at all. A short clause providing that the burning should be prohibited during certain months was sufficient to meet all the needs of the country. There were a number of people who did not read the *Government Gazette*. The Agricultural Department might have the notices printed on calico and sent to the various districts, where they could be posted. In that case everyone would be able to read them.

On motion by the MINISTER FOR LANDS, progress reported and leave given to sit again.

## POLICE ACT AMENDMENT BILL.

[Gold stealing, Prostitution, Juvenile smoking, Sunday observance.]

### SECOND READING.

THE MINISTER FOR LANDS (Hon. A. Jameson): In moving the second reading of this Bill, I should like in the first instance to point out that there is nothing in the measure for which we have not precedent. It is suggested that in this Bill we are going in for advanced legislation of a certain kind, and in some quarters it is stated to be grandmotherly legislation. There is nothing in the Bill for which we have not clear precedent in the Imperial Acts, and I should like, in moving the second reading, to point out the principles which are involved. This Bill does not deal with a great number of questions. There are four or five matters dealt with in this amending Bill. The first is in regard to the stealing of gold, in order to prevent gold being stolen, and I believe there is great trouble in this regard on the goldfields. It is said that gold-stealing is very prevalent; and the principle is advanced somewhat in this Bill. At the present time to convict, it is necessary to find the gold on the person; but under Subclause (*b*) of Clause 2, members will see the provisions set forth that—

Any person who, in his possession on any premises of which he is the tenant or occupier,

or reputed tenant or occupier, has any gold reasonably suspected of being stolen or unlawfully obtained . . . is liable, on summary conviction, to a fine not exceeding Fifty pounds or to imprisonment.

If the gold is found on a person's premises, it rests with the person on whose premises the gold has been found to prove to the satisfaction of the magistrates that the gold was lawfully obtained. It is said that this is entirely a new principle we are trying to bring in. I should like to point out that the principle has existed in certain cases for 150 years in the Imperial Acts making the onus of proof rest on the individual. Under the Masters and Servants Act of 1794 I find that there they deal with abuses of this kind. That Act deals with unlawfully having woollen material on premises, and it provides that in such cases the onus of proof rests on the individual in whose possession the goods are found. Therefore they have the same offence as far back as 1794. Then we find, in relation to the army, where any property provided in the section is found in possession of a soldier, if the person cannot satisfy the magistrates how he came into possession of the property, he is liable on summary conviction to a penalty not exceeding £5. This is in the Army Act of 1881. I do not wish to labour the point, but I should like to quote one other instance that, in regard to explosives, the same law was enacted so late as 1883. I mention these cases to show there is no new principle involved in this legislation. It is very necessary in some cases, where it is difficult to prove that such things as gold and precious stones have been stolen, to leave the onus on the person who is possessed of the gold or precious stones to prove his innocence. The Government have inserted this clause in regard to gold-stealing, to endeavour to put a stop to the serious condition of things which exists on the goldfields at the present time. Those provisions will be found up to Clause 6 of the Bill. Clauses 7, 8, and 9 deal with questions in regard to what is termed the "social evil." It may be recognised in this State that, although prostitution may be, and has been stated by some to be a necessary evil, it must not be an evil that shall flaunt itself in the eyes of the people in our streets; we wish to keep temptation away, as far as possible, from the youths in the towns. That is the object of the clauses, and they are not in advance of the Acts of the old countries. The Criminal Code provides that under Section 207 it is a misdemeanour to have premises where prostitution is carried on. Under the Municipal Act there are certain by-laws in this respect. The object of the Bill is to make this a police offence, so that the social evil may be dealt with summarily and not before a jury. Under the English Vagrancy Act, any person making money out of the earnings of these unfortunate people are liable to be punished. This Bill re-enacts the English Vagrancy Act of 1898. There has been considerable exception taken to Clause 10, prohibiting the sale of tobacco to children. It may be difficult to have this carried out; but I am convinced it will be to the advantage of the young if they are not permitted to smoke till they reach a certain age. This truth has been recognised in other countries—in a country where I lived for many years, in Italy, and I believe in Germany. [HON. R. G. BURGES: Is it in England?] No; but of course in the old, settled countries it is more difficult to pass such legislation. The difficulty of administering such a law in a city like London with millions of people is so great as to render the proposal impossible. We have in this country some 213,000 persons; and it will be comparatively easy to impress on such a handful of people the views embodied in this measure. I say it is comparatively easy here, and therefore ought to be done, if members are of opinion that the thing itself is desirable. If so, let us not be disappointed if we cannot give effect in entirety to our wishes. We can do so in some measure: we can show what are our beliefs and our principles; our embodiment of them in a statute will have a great effect on public opinion; and surely if we do no more than that we shall attain a valuable end, because it must be admitted that cigarette smoking by youths is exceedingly detrimental to health, and affects the vitality of those who fall victims to the habit. Clause 11 deals with the prohibition of certain Sunday entertainments. It represents what was the law of this country till the criminal code was enacted last year. The

clause was in one of the repealed Acts, the old Act of 1781 for the observance of the Sabbath, providing that any house, room, or other place which shall be opened or used for public entertainment or amusement, or for the public debating of political questions, etc., on Sundays, and to which persons shall be admitted on payment of money or by tickets sold for money, shall be deemed to be a disorderly house or place; and there are heavy penalties. That is, of course, a very harsh section; and we overcome the difficulty by inserting Subclause 3 of Clause 11, thus providing for Lord Hobhouse's proposed amendment, to the effect that any lecture, address, or discussion on science, ethics, social duties, literature or art, or of any matter of public interest, shall not be deemed a public entertainment within the meaning of this clause. Thus, the clause, which seems very drastic, is in a large degree qualified. In dealing with this measure, I hope hon. members will not meet difficulties half-heartedly, and turn back when they perceive that it is not easy to carry out the proposed provisions, deciding not to make the attempt. If we are to act on those lines we cannot advance as a young and growing country ought to advance. A mere handful of people who hope to be a great nation and part of the Commonwealth, surely if we believe the objects of the Bill to be right, we should take this opportunity of impressing them on the people, in that way moulding public opinion. I believe it is the duty of hon. members so far as they can to mould public opinion in our State; and we can do so by enacting laws such as this, the provisions of which every member will doubtless admit are desirable, though some may doubt whether they can be carried out. I therefore ask the House to allow the Bill to become law, so that every endeavour may be made to give it effect. I hope there will be no difficulty in supporting the second reading.

On motion by HON. J. W. HACKETT, debate adjourned till the next Thursday.

## DROVING BILL.

### IN COMMITTEE.

Clauses 1 to 4, inclusive—agreed to.

Clause 5—Proprietor to provide drover with delivery note, etc.:

HON. J. E. RICHARDSON: Subclause 2, providing for posting the delivery note in a registered letter to the chief inspector, would in the northern districts be impracticable, for drovers were frequently hundreds of miles from a post office. He moved that the word "registered," in the last line, be struck out.

HON. E. McLARTY supported the amendment.

HON. C. SOMMERS: Without the registration there would be no proof of posting.

HON. R. G. BURGES: The notice might be left at the nearest police station.

Amendment passed, and the clause as amended agreed to.

Clause 6—agreed to.

Clause 7—Justice of the peace, inspector or officer, may grant interim waybill or note:

HON. R. G. BURGES: For a duplicate waybill the fee was too high. He moved that "one pound" be struck out and "five shillings" inserted in lieu.

Amendment passed, and the clause as amended agreed to.

Clauses 8 to 11, inclusive—agreed to.

Clause 12—Drover may in certain cases be punished summarily:

HON. B. C. O'BRIEN moved that the words after "appear," in line 10 of the clause, be struck out, and the following inserted in lieu:—"Before any two or more justices of the peace living nearest to where such breach of these regulations was committed, and to be dealt with as provided for by this Act." A person in charge of travelling stock might commit a breach of the regulations, but he was not allowed to remain on the road with the stock: he must travel on. A summons might be issued against a drover causing him to appear at a certain place which might take the drover back a considerable distance, inflicting great hardship on him.

HON. J. W. WRIGHT: Was it possible for a man to be summoned to appear outside the district where the offence was committed?

HON. B. C. O'BRIEN: It was unnecessary to have the words in the clause "shall be guilty of an offence against this Act," because Clause 19 provided the penalties for offences.

HON. J. A. THOMSON: The amendment was a very good one; the only point that arose in his mind was as to its feasibility. If a person committed a crime in the Coolgardie magisterial district that person could not be tried in the Perth magisterial district.

HON. M. L. MOSS: He could be tried in any part of the State.

HON. J. A. THOMSON: In debt cases he knew that was not so, and he had a person who had committed an offence at Albany apprehended at Geraldton, and the offender had to be sent back to the Albany district to be dealt with.

HON. W. T. LOTON: The amendment was not an improvement; it would limit a selection of the most convenient justices to hear the case. A justice of the peace had to issue the summons, and he would naturally consult the convenience of the drover who was in charge of the stock. If it was provided that the drover should appear before two justices living nearest to the place where the offence was committed, one of the justices might be a hundred miles away at the time, and the drover might have to remain in the district for a month before the justice returned.

SIR E. H. WITTENOOM: A difficulty which he saw in connection with the amendment was that the drover might have to be tried before the owner of the sheep, for the owner might be one of the justices living nearest to the place where the offence was committed. There was the absence of any penalty in the amendment, and unless a penalty was provided the amendment would not attain the object in view.

HON. J. W. HACKETT: By the amendment the words of the clause which made the commission of the act an offence were struck out. It was not enough to say that an offender should be tried under the Act. It must be provided what he should be tried for.

HON. M. L. MOSS: The penalties were provided by Clause 19.

HON. J. W. HACKETT: But the amendment left out the statement that the person was guilty of an offence, practically allowing a drover to commit the offence.

HON. B. C. O'BRIEN: A person had to be proved guilty of an offence.

HON. M. L. MOSS: The amendment should be withdrawn and dealt with under Clause 19. It could then be moved that the offence should be dealt with by justices living in the district nearest to where the offence was committed. The amendment was rather confusing.

HON. B. C. O'BRIEN: The object in view was to protect as far as possible those in charge of stock on the road. A drover might commit an offence, and the owner of the run or inspector have reason to issue a summons against him. The drover must not stop on the road: he must travel so many miles every day going farther and farther away from the place where the alleged offence was committed. He wished to provide that the case should be dealt with as soon as possible by the nearest justices, or a drover might be put to a great deal of inconvenience by having to travel back perhaps a hundred miles. A man travelling with stock deserved a lot of consideration, and the Acts of New South Wales and Victoria extended conveniences to the drovers of stock. The owner of the run and the stock owner were protected throughout the Bill, therefore the measure should be made acceptable to the person travelling with the stock. The drover, as well as the owner of the run, should be protected.

SIR E. H. WITTENOOM: True, the drover should be protected; but if summoned, Clause 14 provided that in the event of compliance with any of the foregoing provisions entailing unnecessary hardship, it should be competent for any justice of the peace, inspector, or occupier of the run, to give written permission to vary the requirements.

HON. C. A. PIESSE: Before either Mr. O'Brien or Sir Edward Wittenoom spoke, he had risen to speak.

THE CHAIRMAN: The hon. member had not been noticed; and to nominate a speaker was in the discretion of the Chair.

HON. C. A. PIESSE: There would be difficulty in case the nearest justices had not jurisdiction, which they would not have save in their own magisterial districts. How would that case be met, especially in the far north? For this provision should be made in the amendment.

HON. C. E. DEMPSTER: In the absence of the drover, there should be

provision for some competent person to take charge of the stock, else serious loss might be sustained by the owner.

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

| | | | |
|---|---|---|---|
| Ayes | ... | ... | 5 |
| Noes | ... | ... | 15 |
| Majority against | | ... | 10 |

| AYES. | NOES. |
|---|---|
| Hon. T. F. O. Brimage | Hon. R. G. Burges |
| Hon. J. M. Drew | Hon. E. M. Clarke |
| Hon. B. C. O'Brien | Hon. J. W. Hackett |
| Hon. J. A. Thomson | Hon. S. J. Haynes |
| Hon. C. E. Dempster (*Teller*). | Hon. A. Jameson |
| | Hon. A. G. Jenkins |
| | Hon. W. T. Loton |
| | Hon. E. McLarty |
| | Hon. M. L. Moss |
| | Hon. C. A. Piesse |
| | Hon. J. E. Richardson |
| | Hon. C. Sommers |
| | Hon. Sir E. Wittenoom |
| | Hon. J. W. Wright |
| | Hon. W. Maley (*Teller*). |

Amendment thus negatived, and the clause passed.

Clause 13—agreed to.

Clause 14—Travelling stock to be moved certain distances a day:

HON. B. C. O'BRIEN moved that all the words after "than," in line 5, before the proviso, be struck out, and "six miles a day towards their destination" inserted in lieu. Stock were to move not less than five miles a day through unenclosed and not less than seven through enclosed country. The provision regarding enclosed lands was unnecessary and cumbrous, for portions of the road might be fenced, and other portions unfenced, thus confusing the drover and the person administering the Act. Six miles was a fair day's journey for a sheep.

SIR E. H. WITTENOOM: All recognised that five miles was simply a minimum, for the rate could be exceeded. When passing over a another man's run the drover must not travel less than five miles in a day. In the Murchison and Gascoyne districts there were hundreds of miles of enclosed country, and travelling stock might be in a 20-mile paddock for four or five days.

HON. B. C. O'BRIEN: Did not the clause refer to lands fenced off from the road?

SIR. E. H. WITTENOOM: No. The intention was that sheep, etcetera, should travel seven miles when on fenced land on which other stock were pasturing. To make the distance less than seven miles would be unwise, for it was undesirable to have two mobs of sheep in the same paddock. The clause had nothing to do with a road fenced on both sides.

HON. J. E. RICHARDSON agreed with the last speaker. The clause was in the old Act.

HON. B. C. O'BRIEN withdrew the amendment.

Amendment by leave withdrawn.

At 6·32, the CHAIRMAN left the Chair
At 7·30, Chair resumed.

Clause passed.

Clause 15—Drover to give notice before entering run, and of approach to homestead, etc.:

HON. J. E. RICHARDSON moved that in line 9 the word "twelve" be struck out, and "eighteen" inserted in lieu. Twelve hours' notice was not sufficient to give the owner of a run of the intention to pass through. As a rule, the drover arrived at the homestead at about dark saying that the next morning he was going through the run; the drover was 10 or 12 miles away, and at sunrise he would pass through. If only 12 hours notice was given, the run-owner would not be able to get his horses and men together to see the drover through the run. The original Act gave 24 hours' notice.

SIR E. H. WITTENOOM: Would not the amendment cause the drover to ride a long distance to give notice?

HON. J. E. RICHARDSON: If only 12 hours' notice were given the owner of the run would not be prepared by daylight the next morning to see the drover through the run.

SIR E. H. WITTENOOM: Why?

HON. J. E. RICHARDSON: Because the run-owner's horses would have been turned out in a paddock, and could not be got in before daylight the next morning.

HON. B. C. O'BRIEN: In the other States it was 12 hours.

HON. J. E. RICHARDSON: The northern areas were not to be compared with the small runs in Victoria.

HON. B. C. O'BRIEN: The same provision existed in New South Wales.

Amendment passed.

HON. B. C. O'BRIEN moved that the following be added to Subclause 3—"nor in the case of any run not having

at the time depasturing thereon 500 or more sheep, or 50 or more head of cattle." This amendment would bring the Bill into conformity with the Acts of New South Wales and Victoria. In the other States a drover with stock was not compelled to give notice to any person who had not 500 or more sheep. According to the clause, any person holding 20 or 30 sheep could compel a drover to give 18 hours' notice of his intention to enter the run. That was a little unfair. If a drover was going through farming country every person who owned a few sheep could harass the drover. The same provisions obtained in the East.

HON. M. L. MOSS: Then it would be impossible to convict without proving that the proprietor had at least 500 sheep or 50 cattle.

HON. B. C. O'BRIEN: In Victoria and New South Wales the cattle drover had not to give notice except to cattle stations, nor had the sheep drover to give notice ere going through cattle runs, unless the owner of the run had a certain number of stock. The minimum number of sheep was 500; of the minimum number of cattle he was not aware, but in the amendment had inserted 50.

HON. E. McLARTY: How could a drover know whether the owner of paddocks he was approaching had 500 or 1,000 sheep? A man owning less than 500 would suffer more from the loss of two or three hundred removed by a drover than would the owner of thousands.

HON. B. C. O'BRIEN: The onus was cast on the drover of proving that the owner had not 500.

HON. M. L. MOSS: Then the drover must send an advance guard to muster the sheep.

Amendment negatived, and the clause as amended agreed to.

Clause 16—Travelling sheep to be branded "T":

HON. R. G. BURGES: In the definition of "travelling stock" nothing was said as to distance. By the clause, if a man were taking even one sheep anywhere, he would have to brand it. On recommittal the definition of "travelling stock" should be altered.

Clause passed.

Clause 17—Sheep or cattle returning to same district to pay a travelling charge:

HON. B. C. O'BRIEN: Subclause 2 exempted from the provisions of this clause and of Clause 16 sheep and cattle *bona fide* transferred to another run of the same owner. He moved that the words "of the same owner," in line 3, be struck out. It was often necessary for a man's stock to be depastured on another man's station leased for the purpose.

SIR E. H. WITTENOOM: The clause sought to prevent people who had no runs from travelling stock up and down at the expense of neighbours. Unless the words were retained, all sorts of arrangements would be made to defeat the Act.

HON. M. L. MOSS: To make the exemption workable the words must be retained. If an owner leased another run, it would be temporarily his own. Without the qualification the proviso would be useless.

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

| | | | | |
|---|---|---|---|---|
| Ayes | ... | .. | ... | 5 |
| Noes | ... | ... | ... | 13 |
| Majority against | | | ... | 8 |

| AYES. | NOES. |
|---|---|
| Hon. T. F. O. Brimage | Hon. R. G. Burges |
| Hon. J. D. Connolly | Hon. C. E. Dempster |
| Hon. J. W. Hackett | Hon. S. J. Haynes |
| Hon. B. C. O'Brien | Hon. A. Jameson |
| Hon. J. M. Drew (*Teller*). | Hon. W. Maley |
| | Hon. E. McLarty |
| | Hon. M. L. Moss |
| | Hon. C. A. Piesse |
| | Hon. J. E. Richardson |
| | Hon. J. A. Thomson |
| | Hon. Sir Edward Wittenoom |
| | Hon. J. W. Wright |
| | Hon. B. C. Wood (*Teller*). |

Amendment thus negatived, and the clause passed.

Clauses 18, 19, 20—agreed to.

First Schedule:

On motion by HON. R. G. BURGES, progress reported and leave given to sit again.

## ROADS ACT AMENDMENT BILL.

### IN COMMITTEE.

The MINISTER FOR LANDS in charge.

Resumed from the 6th November.

Clause 95—agreed to.

Clause 96—Governor may place reserves, etc., under controls of boards:

HON. J. W. HACKETT: Ought there not to be a reservation of the rights of the amending Reserves Act? The clause seemed to be too sweeping.

THE MINISTER FOR LANDS: The only portion of the clause which was new was the provision for the purposes of controlling or managing any reserve, park, or recreation ground.

HON. J. W. HACKETT: This Bill would be passed after the Reserves Classification Act. There was nothing in the Bill saving the rights of the amending Reserves Act, which dealt with classifications *a*, *b*, and *c*.

THE MINISTER FOR LANDS: By the latter portion of the clause, parks and reserves were subject to the Bill.

HON. J. W. HACKETT: It was not the Parks and Reserves Act; it was the amending Act of 1895. He moved that the clause be postponed.

Motion passed, and the clause postponed.

Clause 97—agreed to.

Clause 98—Power to board, general management of roads, etc.:

SIR GEORGE SHENTON: If a roads board asked for the powers provided by Subclauses 2 and 5, they should accept the responsibility of becoming municipalities. Subclause 2 provided that boards might have power to light and water roads, and Subclause 5 gave power to plant and maintain trees and shrubs in any road or public place. If boards wished to have these luxuries, they should ask to be proclaimed municipalities. He moved that the consideration of the clause be postponed.

Motion passed, and the clause postponed.

Clause 99—Expenditure on bridges and culverts to be under direction of Minister:

HON. J. W. WRIGHT moved that in line 3, after "or," the words "an engineer approved of and" be inserted.

HON. C. A. PIESSE: The amendment seemed unnecessary. An engineer was an officer, and an engineer would always be sent to supervise the construction of a bridge or a culvert.

Amendment passed, and the clause as amended agreed to.

Clauses 100, 101, 102—agreed to.

Clause 103—Procedure for taking land:

HON. R. G. BURGES: Why was this power taken away from roads boards, and placed under the Public Works Act? Why should it not be left in the original Act?

HON. C. A. PIESSE: This was one of the difficulties which country districts suffered from. People in the country were not able to get all the information in one Act, and, according to this clause, the roads boards would have to get a Public Works Act to know what procedure to adopt.

THE MINISTER FOR LANDS: The procedure for resumption in the Public Works Act, 1902, was well thought out, and would be simpler than that of the old Roads Act.

HON. R. G. BURGES: As an old roads board member he had not found any difficulty in working under the latter statute. Why should roads boards have to study a new Act?

HON. M. L. MOSS: The Public Works Act empowered the Minister to take lands for Government purposes, or for the works of local authorities, including roads boards. On proclamation in the *Gazette* the land immediately vested in the Crown or in the local authority; and then followed the claim for compensation for the land compulsorily taken. Better have one well-known means of taking land for public purposes than several different procedures, however simple.

Clause passed.

Clause 104—Owner or occupier may require fencing to be erected, etc.:

HON. R. G. BURGES: Subclause 4 provided that the expense of keeping fences or gates in repair should be borne by the owner or occupier. If gates were erected in the public interest the public should keep them in repair, for such gates were frequently injured by travellers.

HON. C. A. PIESSE moved that the words "or gates," in line 1 of the subclause, and "or gates are," in line 3, be struck out. The breaking of gates was a weekly occurrence. If gates were erected by the board, let the board bear the expense.

HON. E. McLARTY: Many gates across public roads were erected at the request of the landowner by permission of the board, which permission might not be granted if the boards were responsible for maintenance. This obligation should rest on the owner.

HON. C. A. PIESSE: The conditions of Clause 104 related to those of the preceding clause referring to lands taken by

the board; and the board should be responsible for gates erected for the convenience of the board, in lieu of fences.

HON. T. F. O. BRIMAGE supported the subclause. If boards had to keep in order all gates in a district, the expense would be heavy.

HON. R. G. BURGES: By Subclause 2 the board might, instead of erecting fencing as required by the owner, erect gates in the fences through which the road passed. Was it fair that the landowner should have to keep such gates in order?

HON. T. F. O. BRIMAGE: Why should the board keep in repair gates erected for the convenience of squatters?

HON. J. A. THOMSON: As regarded freehold property Mr. Burges was right, but it was only on leasehold land that such gates would be erected, and they were erected for the convenience of the leaseholder, to prevent the escape of stock; therefore the leaseholder should keep them in repair.

HON. C. E. DEMPSTER: Where a road was made through a lease the board should erect gates and keep them in proper order for the protection of the leaseholder.

HON. E. M. CLARKE: The gates were erected for the convenience of the landowner. The Crown resumed portion of the property in the public interest, and the least the Crown could do was to secure the boundaries of the property and prevent the wandering of stock. The board elected to put up a gate to save themselves the cost of a fence; and that the owner should be responsible for repairs was unreasonable. If too poor to erect a proper fence the board should maintain the gate; for the board, in the event of injury to the gate, could sue for damages.

HON. J. W. HACKETT: This was a matter for compromise. The lessee was spared the expense of putting up the gate, and was asked to keep it in order. The board saved the occupier the expense of erecting the gate, but asked him to keep it in order after erection. Pastoral lessees, not having too many friends in the country, were entitled to consideration. It was in the interests of the lessee that gates should be erected, for if a man drove along in a buggy and came to a fence, and there was no gate, he would cut the wires and pull up the posts. It was far better for the lessee to keep a gate in repair than to have his fences destroyed.

HON. R. G. BURGES: A person could not cut down the fences around a lease, for a man's lease was as much protected as a man's garden which could not be entered.

HON. J. W. HACKETT: The lessee would never catch the man who cut the wire fences.

HON. R. G. BURGES: If a gate was erected a man had a right to go through that gate. Mr. Hackett did not wish to give justice to the lessees. A man who had a million acres should have just as much justice as the man who had only a few acres. The only question in dispute was whether the lessee or the board should keep the gates in repair. Rates were collected from the leaseholder as well as from other people, therefore why should the lessee keep the gates in repair for other people?

HON. C. A. PIESSE: If a fence was erected around fee simple land the board had no right to put up gates except at the request of the owner, but on leasehold land, which was just as valuable to the pastoralist as fee simple land, the gates had to be kept in repair by the lessee. The gates were not for the convenience of the pastoral lessee but for the convenience of the public, therefore the board should keep the gates in repair.

HON. E. McLARTY: There was a difference between a gate which was erected at the request of the board and one erected at the request of the lessee. He had been a member of a roads board for 28 years, but could not call to mind one gate on a public road which had been erected except by permission of the board, and these were gates which lessees required for their own convenience. If the clause applied to gates which the board wished to erect in place of fencing the road, then the board should keep those gates in repair, but where settlers applied to the board for permission to erect gates, then the lessee should keep those gates in repair. In 19 cases out of 20 gates were erected at the request of the landowner, and the board should not keep those gates in repair. On his own property he had many gates, and he had applied to boards for permission to erect

gates. If these gates were broken, it was not the duty of the board to repair them.

Question (that the words proposed to be struck out stand part of the question) put, and a division taken with the following result:—

| | | | |
|---|---|---|---|
| Ayes | ... | ... | 9 |
| Noes | ... | ... | 9 |
| A tie | ... | ... | 0 |

| Ayes. | Noes. |
|---|---|
| Hon. T. F. O. Brimage | Hon. R. G. Burges |
| Hon. J. W. Hackett | Hon. E. M. Clarke |
| Hon. A. Jameson | Hon. C. E. Dempster |
| Hon. E. McLarty | Hon. J. M. Drew |
| Hon. M. L. Moss | Hon. S. J. Haynes |
| Hon. R. C. O'Brien | Hon. A. G. Jenkins |
| Hon. Sir George Shenton | Hon. C. A. Piesse |
| Hon. J. A. Thomson | Hon. J. E. Richardson |
| Hon. J. D. Connolly (*Teller*). | Hon. J. W. Wright (*Teller*). |

THE CHAIRMAN gave his vote with the Ayes.

Amendment thus negatived.

HON. E. McLARTY: Gates erected at the request of the board should be kept in repair by the board; but gates erected at the request of a settler should be kept in repair by the settler.

THE MINISTER FOR LANDS: The definitions of "fence" in the Land Act and in this clause were identical—any substantial fence approved by the Minister sufficient to resist the trespass of small stock, including sheep, but not including pigs or goats.

HON. R. G. BURGES: The definition here given should be that of the Trespass Act.

HON. M. L. MOSS: That was identical with the Land Act definition.

HON. J. A. THOMSON: The meaning of the subclause was plain, and there was no necessity for a reference to any other Act. To such references Mr. Burges had quite recently objected.

Clause passed.

Clause 105—agreed to.

Clause 106—Board may take materials for road-making:

HON. C. A. PIESSE moved that the word "field" be inserted between "a" and "garden" in line 1 of paragraph (*a*) of Subclause 1. Without special provision against removing material from fields, they would be seriously injured.

HON. A. G. JENKINS: The paragraph was a new departure, giving the board power to enter on any land in the district and take any road-making material; whereas by the principal Act materia could not be taken save from propert contiguous to the road, and not fo repairing a road some distance away True, there was compensation; but i might not always compensate for materia removed.

SIR G. SHENTON: In the case of road made through a man's property fo about two miles, the owner willingl gave consent to taking material, as th road abutted on his property. But late on the board, making a road at a distance claimed the right still to take materia from the same land; and the Suprem Court issued a mandamus to preven this, because the road did not adjoin th land. The law should not be altered.

HON. J. A. THOMSON: Suitabl gravel might be found in one part onl of a roads board district, therefore th board should have power to take materia from any part; and by Subclause 3 th owner was entitled to compensatio unless the material was required for road adjoining his property.

HON. R. G. BURGES: The whol clause should be struck out. How did town council procure gravel? By payin for it. And what difference was ther between a town landowner and one in th country? Why should the latter's grave be compulsorily taken to repair roads?

HON. M. L. MOSS: If a field wa defined as an area of ground which wa fenced, then no road-making materia could be taken from any land that wa fenced, and the erection of a fence aroun an area of land would preclude the road board taking material for the repair of road.

Amendment withdrawn.

HON. A. G. JENKINS moved that i line 2 of paragraph (*a*), after the wor "land," the following be inserted— "adjoining or contiguous to any road."

HON. C. E. DEMPSTER: It was unjus to allow roads boards to cut up land fo the purpose of repairing roads.

HON. C. SOMMERS: The amendmen would not meet the case. It wa absolutely necessary in some district where there was a good quarry or gravel hill to take the material fo repairing roads. If the amendment wa inserted no roads would be made at al It was provided by Subclause 3 tha compensation was to be paid for an

damage done. Patches of stone and good road-making material only occurred occasionally in a district. Roads were required to open up the country.

THE MINISTER FOR LANDS: It was to be hoped the clause would be passed as it stood. Supposing no gravel was found adjoining any particular road and there was gravel half a mile away which the owner refused to sell, the whole district would suffer. Every provision was made for compensation to be paid if the gravel was not abutting on the road, and the compensation was to be determined by a magistrate and two assessors. By Subclause 5, if the board in the exercise of its powers made a hole that hole must be filled up or the sides sloped down or the place securely fenced. The country could not be settled if there were no roads.

HON. E. M. CLARKE: This question must be looked at from a practical standpoint. In some localities a roads board had to go five miles to get good patches of road-making material. Down south, good road-making material was only met with at intervals, and in some instances roads boards had to cart material six or seven miles, and then it was poor stuff. At Busselton, the Government proposed to spend a large sum of money in road-making, but he did not know where they would get the material from unless they carted it a distance of about nine miles. According to the clause, fair compensation was to be paid to the owner of the material. One obstinate man should not have the power to stand in the way of a roads board obtaining good material. He would support the clause as it stood. A field was an indefinite term. Mr. Piesse might propose to insert the words "a cultivated paddock." If such an amendment were inserted the clause would meet with his approval.

HON. E. McLARTY: The clause would affect him personally, and if he looked at the clause from a personal point of view he would oppose it. He had on some of his property good road-making material which he had allowed to be worked. It would be very difficult indeed to make roads without the power being given to take material from land. Fair compensation was to be paid by a contractor, or a board, who must keep the fences in repair. As the country must have roads where good material was obtainable, if the owner was to be compensated, he would support the clause.

HON. A. G. JENKINS asked leave to withdraw his amendment.

Amendment withdrawn.

HON. C. A. PIESSE moved that in line 1 of paragraph 2, after "being," the words "or land under cultivation or" be inserted.

Amendment passed.

HON. R. G. BURGES: By Subclause 2 the board must give one week's notice before entry to take material. Three days' notice was sufficient, considering that workmen might be kept idle. He moved that the words "one week's," in line 5, be struck out, and "three days" inserted in lieu.

Amendment passed.

HON. R. G. BURGES moved that the words "make good such fence or," in line 8, be struck out. If the board opened a fence, they ought to erect a swing gate.

HON. J. A. THOMSON: The board might require only one load of gravel; and the landowner would be protected by the fence being made good and left as found.

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

| | | | |
|---|---|---|---|
| Ayes | ... | ... | 3 |
| Noes | ... | ... | 16 |
| Majority against | | ... | 13 |

| AYES. | NOES. |
|---|---|
| Hon. C. E. Dempster | Hon. E. M. Clarke |
| Hon. E. McLarty | Hon. J. D. Connolly |
| Hon. R. G. Burges *(Teller).* | Hon. J. M. Drew |
| | Hon. J. W. Hackett |
| | Hon. S. J. Haynes |
| | Hon. A. Jameson |
| | Hon. A. G. Jenkins |
| | Hon. M. L. Moss |
| | Hon. R. C. O'Brien |
| | Hon. C. A. Piesse |
| | Hon. J. E. Richardson |
| | Hon. C. Sommers |
| | Hon. J. A. Thomson |
| | Hon Sir E. Wittenoom |
| | Hon. J. W. Wright |
| | Hon. T. F. O. Brimage *(Teller).* |

Amendment thus negatived.

HON. C. A. PIESSE moved that the words after "taken," in line 4 of Subclause 3, be struck out. These words provided that no compensation should be given for material taken for the construction or repair of that portion of the road abutting on the land of the owner. The road might be used by the public a thou-

sand times more frequently than by the landowner.

HON. M. L. MOSS: This was the existing law. For whose benefit was the road made?

HON. C. A. PIESSE: For the benefit of the public. Owners would gladly make private roads to the highway. As the road was used by the public, the owner should have compensation.

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

| | | | |
|---|---|---|---|
| Ayes | ... | ... | 8 |
| Noes | ... | ... | 9 |
| Majority against | ... | | 1 |

| AYES. | NOES. |
|---|---|
| Hon. R. G. Burges | Hon. J. D. Connolly |
| Hon. E. M. Clarke | Hon. J. M. Drew |
| Hon. C. E. Dempster | Hon. S. J. Haynes |
| Hon. E. McLarty | Hon. A. Jameson |
| Hon. C. A. Piesse | Hon. M. L. Moss |
| Hon. J. E. Richardson | Hon. B. C. O'Brien |
| Hon. J. W. Wright | Hon. C. Sommers |
| Hon. A. G. Jenkins (*Teller*). | Hon. J. A. Thomson |
| | Hon. T. F. O. Brimage (*Teller*). |

Amendment thus negatived.

Clause as amended agreed to.

Clause 107—Board may close a road permanently:

HON. R. G. BURGES: Was this provision in the original Act?

THE MINISTER FOR LANDS: It was Section 73 of the Act of 1888.

Clause passed.

Clauses 108, 109, 110—agreed to.

Clause 111—Board may require land on which there is an excavation to be fenced:

HON. R. G. BURGES: The Government might sell a block of land on which there were gravel pits, and the next day the board might require the pits to be fenced. If the owner refused to fence the land, the board could do the work, and make the owner pay. This was an extraordinary provision, and he moved that the clause be struck out.

THE MINISTER FOR LANDS: As far as his recollection served him, this clause was recommended by one of the conferences. If excavations were left unfenced, they would be a source of danger, and surely the owner of the land should see that these excavations were not a danger to the public. Was the board to be required to fence these holes? The board did not make them. Somebody must fill up the excavations, or fence them. It could not be expected that the board should go round a man's propert and fence all the dangerous places. A man purchased property knowing th incumbrances attaching to it.

HON. R. G. BURGES: The board should fence the excavations as they ha power under the Bill to spend money.

HON. C. A. PIESSE: There were man excavations which had been made b roads boards in the past. Unless som provision were made for the protection o the settlers, he would support the strikin out of the clause. He knew of a doze dangerous places made by roads boards

HON. C. E. DEMPSTER: Surely th owner of land was not expected to fil up excavations which had been mad by roads boards in the past. He sup ported the striking out of the clause.

On motion by HON. M. L. MOSS, pro gress reported and leave given to si again.

## ADJOURNMENT.

The House adjourned at 20 minutes t 10 o'clock, until the next day.

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# Legislative Assembly,

*Tuesday, 11th November, 1902.*



THE DEPUTY SPEAKER took th Chair at 2·30 o'clock, p.m.

PRAYERS.

## QUESTION—RAILWAY WORKSHOPS, MIDLAND JUNCTION.

MR. PIGOTT (for Mr. Harper) asked the Minister for Works: What progres has been made with the construction o