

MR. TAYLOR: How long does the farmer stay?

MR. ATKINS: The farmer stays here always. Goldfields have never made any town in Australia. Ballarat was never made by the goldfields, and after the gold went down, the town was carted away. I saw them carting it away. The same can be said of Clunes, of Creswick, of Mount Alexander, of Castlemaine, of Kyneton, of Bendigo, and every other goldfield town in Victoria.

MR. TAYLOR: Charters Towers in Queensland?

MR. ATKINS: I have not been to Queensland. The hon. member can talk plenty of Queensland, without anybody else talking about that country. I do not see that the goldfields people should be always crying out like the daughter of the horse leech, "Give, give"; as if nobody else is to have any sort of representation. It is not fair. People who are fixed in the country are entitled to more representation than a lot of persons who come here to-day and may be gone to-morrow; but I do not consider that the industries which are here to stay are nearly as well represented as the goldfields people are. I am not going into the question of the Upper House, because I do not think that is our business to-night. It is for us to say what we want to do ourselves. I think the Upper House had better mind their own business, and that we had better mind ours.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned at 10:17 o'clock, until the next evening.

Legislative Council, Wednesday, 5th November, 1902.

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THE PRESIDENT took the Chair at 7:30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By HON. M. L. MOSS (Minister)
Plans of Fremantle Harbour, as described in the schedule to the Fremantle Harbour Trust Bill.

INDECENT PUBLICATIONS BILL.

Read a third time, and passed.

PUBLIC WORKS BILL.

IN COMMITTEE.

Resumed from the 29th October; Hon. M. L. Moss in charge.

Clause 83—Penalty for destroying survey marks, etc.:

HON. R. G. BURGESS moved an amendment as to penalty, but withdrew it temporarily.

HON. J. D. CONNOLLY, moved as an amendment that the words "to imprisonment with or without hard labour for any term not exceeding two years" be struck out for the purpose of inserting: "for the first offence to a penalty not exceeding twenty pounds, and for any subsequent offence to a penalty not exceeding one hundred pounds." He said he was aware that it was a serious offence to interfere with any surveyor's mark wilfully, but this clause did not say "wilfully." A man might do it quite accidentally; in driving through the bush he might run his cart over a survey peg, and thus become liable to imprisonment. The magistrate would have no other course than to imprison him; yet to imprison a man for such offence was too severe.

HON. G. RANDELL: The penalty provided for in Clause 83 did not apply in relation to any mark put down in the bush indiscriminately by persons wanting to sell land or anything of that sort, but to interference with marks fixed under this measure.

HON. A. G. JENKINS supported Mr. Connolly's amendment. Leaving out the word "wilfully" made the clause seem absolutely ridiculous. To make liable, on summary conviction, to imprisonment with or without hard labour a man who might destroy any one of these pegs or survey marks, was in opposition to all known principles of law. The clause went on to say, "every person who wilfully obstructs any such surveyor." Why was the word "wilfully" inserted there, if there was no necessity for it in the first part of the clause?

HON. M. L. MOSS: Because in the one case it could be proved that a person acted wilfully and in the other it could not.

HON. A. G. JENKINS: That was the worst reason possible. In relation to every other offence under the common law a man must offend wilfully to be convicted. If the word "wilfully" were inserted in the first line there might be some reason for inflicting imprisonment.

HON. W. MALEY: If members would read the first line of the clause they would see that a person having authority to destroy a mark or remove a peg would still be liable to be arrested and to receive two years' imprisonment. The clause read "Every person who, without due authority"; so that a person who, having authority not conveyed in a proper channel, and not properly given, destroyed a landmark, was still liable to two years' imprisonment. The whole thing on the face of it was absurd.

HON. M. L. MOSS said the Government were quite willing to accept the amendment and substitute a fine.

HON. R. G. BURGESS: At last.

HON. M. L. MOSS: There was no "at last" about it at all. On the last occasion when this was before the Committee the Government were quite prepared to accept a fine. He did not alter the opinion he expressed then that this was a very serious matter, and that an alteration of these marks cost the Government a considerable amount of money.

HON. J. W. WRIGHT: Should we make criminals of innocent people?

HON. M. L. MOSS: It was necessary to give the magistrate some discretion. If a thing had been done by pure accident, the magistrate must be given a little discretion to act accordingly. There was

always the right to appeal to the Executive, who would see that nothing unfair was done. Every facility was given to every man who was convicted to put his case before the Executive at the very earliest opportunity. The latter part of the clause referred to a person who wilfully obstructed a surveyor. It would be very easy for the surveyor to give evidence of wilful obstruction, because the surveyor himself would be a witness and be able to give evidence; but in the case of an alteration of these very important pegs it would generally be done when no one was present, and if the word "wilfully" were inserted it would pretty well make the thing a dead letter.

Amendment passed, and the clause as amended agreed to.

Clause 84—agreed to.

Clause 85—Roads vested in the Crown:

HON. J. W. HACKETT: What was a "Government road"? Apparently this was not defined in any Act.

HON. M. L. MOSS: A road constructed by the Government out of Government money, as distinct from one made by a roads board.

HON. G. RANDELL: By a section of the Municipal Act, the roads in the city of Perth were vested in the City Council. Would the clause override that section?

HON. M. L. MOSS: At present roads within the boundaries of a roads board district vested in the Crown, their care, control, and management being given to the boards; and so with municipalities also till 1900, when the last Municipal Act was passed. The Act of that year was founded on the Local Government Act of Victoria, which vested the fee simple of these roads in the local authority. That was not here advisable, and the clause was undoubtedly intended to override the Municipal Act and to vest in the Crown the fee simple of these roads, giving the boards merely the care, control, and management.

HON. J. W. HACKETT: Would the Minister give a clear definition of a Government road?

THE MINISTER FOR LANDS: Apparently there was no definition in any statute, and certainly not in the Roads Act; but it was understood that a Government road was one kept up and maintained by the Government, such as

the Perth-Fremantle road, over which neither roads board nor council now had jurisdiction, the highway being under the Works Department. Such roads had always been considered Government roads.

HON. G. RANDELL: The phrase was defined by Clauses 86 and 87, the latter providing that Government roads should be under the exclusive control and management of the Minister.

HON. J. W. HACKETT: Better put a definition in the Bill. Subclause 2 of Clause 86 defined only what might be done with a Government road.

HON. M. L. MOSS: A Government road was one maintained and made by the Government, if outside the limits of a roads board district.

HON. R. G. BURGESS: Some of them were inside roads board districts.

HON. J. W. HACKETT: Precisely. The Minister for Lands referred to a road within a municipal boundary. There was need for a distinction between a public and a Government road, showing how far the roads boards had any jurisdiction over Government roads as distinct from public highways, and what were the rights of municipalities and roads boards over the former thoroughfares. Roads boards had exercised rights over the Fremantle road.

THE MINISTER FOR LANDS: They used to, but did not now.

HON. J. W. HACKETT: Then the Government had arrogated rights not conferred by statute. There was one class of road wholly maintained by a municipality, one partially maintained by a municipality and the Government, and one supposed to be wholly maintained by the Government, but over which roads boards had always exercised and still exercised rights.

THE MINISTER FOR LANDS: A Government road was maintained by Government funds. If the Works Department had taken over roads without statutory authority, they would no longer do so when Clause 86 passed, for Subclause 2 made it clear that the Governor might, by order gazetted, declare that any road or part thereof should be or should cease to be a Government road; hence a Government road was one ordered by the Governor-in-Council to be a Government road, or a road that the Government were

prepared to maintain and be responsible for.

HON. J. W. HACKETT: Then a Government road was a Government road. The so-called definition in Subclause 2 was absurd. Was the Perth Causeway a Government road? It was supposed to be wholly maintained and constructed by the Government.

HON. M. L. MOSS: The subclauses of Clause 86 must be read together.

HON. J. W. HACKETT: Let the roads boards know what were their rights and duties as to these roads. Without definition anything might be done with such roads, and the Government—not the roads boards—would be responsible.

HON. M. L. MOSS: That did not follow.

HON. J. W. WRIGHT: Were the Government responsible for the lighting of a road declared to be a Government road?

HON. J. W. HACKETT: That was a point he had intended to come to in connection with the Perth Causeway.

Clause passed.

Clause 86—Minister may repair any road, etc.:

HON. M. L. MOSS: Subclause 1 of Clause 86 enabled the Governor to construct or repair any road within the State, but that road did not thereby become a Government road if it were within the limits of a municipality or roads board district. Under Subclause 2, the Governor-in-Council might declare that any road should become or should cease to be a Government road, and such road would become or cease to be a Government road accordingly. Clause 87 gave the Governor-in-Council a right to place any road under the exclusive control of the Minister. Under Subclause 1, although money was spent on a road, that road did not necessarily become a Government road; but under Subclause 2 the Governor-in-Council might exclude by proclamation a road running through a municipality or roads board district from the control of such municipality or roads board, and then the road became a Government road under Clause 87. In the case of the Perth-Fremantle road or the Perth Causeway the Government might consider that, in the interests of the community, the entire control should vest in the Minister.

HON. R. G. BURGESS: The common sense view was that in passing this Bill we were making the Roads Act useless.

HON. M. L. MOSS: Subclause 5 simply meant that when the Governor-in-Council by proclamation declared a road to be a Government road, then for the purposes of repairing and constructing such road the Minister was invested with all the powers and authorities of a roads board. It was not intended to curtail in any way the powers and authorities of roads boards.

HON. R. G. BURGESS: The practice of vesting all sorts of powers and authorities in Ministers was highly objectionable. The extent to which the control of all manner of things was passing into the hands of Ministers constituted a menace to the system of responsible government. It was a fad of the present Government to extend Ministerial authority in every possible way. This country would soon be like the British army in the early stages of the South African war—entirely without responsible leadership. Legal advice was not wanted on this clause, but practical common sense advice. Common sense, indeed, was said to be the foundation of all law. The clause as it stood was absurd. He moved that in Subclause 1, line 1, "Minister" be struck out and "Governor" inserted in lieu.

HON. J. W. HACKETT: There was doubt whether it was desirable to place such unimportant matters as came within the purview of this clause in the hands of the Governor. It was to be noted that in proclaiming a road to be a Government road, the Government were left, for all practical purposes, without any statutory rights to perform certain acts necessary for the construction or maintenance of such road, which rights were provided for municipalities by the Municipal Act, and for roads boards by the Roads Act.

HON. M. L. MOSS: Did not Subclause 5 meet that case?

HON. J. W. HACKETT: Possibly so.

HON. M. L. MOSS: A reference to the interpretation clause showed that "Minister" was defined as meaning Minister for Works, and also as any member of the Executive Council acting as Minister for Works. Every Act of Parliament specified large duties to be carried out, and it was generally provided that such duties were to be carried out by the

Minister specified in the statute or by some Minister charged with the administration of the Act. This was not the first measure submitted to Parliament containing a power of this kind. The substitution of the word "Governor" for "Minister" would render the clause impracticable. "Governor" in this connection meant "Governor-in-Council," which expression again meant the Governor advised by the whole Ministry. Thus, not the paltriest work—even, it was to be noted, after the necessary funds had been voted by Parliament—could be undertaken by the Minister for Works until the matter had been considered in Cabinet, had been agreed to by Cabinet, had formed the subject of a special advice to the Governor, and had been finally approved in Executive Council. There was already quite sufficient red-tape in Government administration. Such circumlocution as the amendment proposed to establish would greatly hamper this or any future Ministry in the performance of its duties under the Bill; and it would look odd indeed, seeing the number of clauses already passed throwing far more onerous duties upon the Minister, if in this clause we inserted the word "Governor," and imposed on the whole Ministry the duty now imposed on the Minister in this clause, and farther imposed that duty on the whole Executive. He hoped the Committee would not agree to the amendment.

HON. W. MALEY: It would be more satisfactory, if the Government intended to undertake the construction of roads, for the Government to declare certain roads in this State main roads or Government roads, and provide the necessary funds and supervise the construction of such roads. The Bill was ill-constructed, and the whole of Clause 86 was quite unworkable. There should be a full definition of what was a main road or Government road.

HON. J. A. THOMSON: The principal opposition to the clause as in the Bill was due to its being expected that the clause would curtail the powers of local bodies. [HON. R. G. BURGESS: No.] He did not wish to curtail the duties or powers of local bodies, but it was necessary for some such powers as those under consideration to be given to the Government. The road from Perth to Fre-

mantle had been instanced, and surely that was an example which members could not ignore when considering this matter. It must be well known to most members present that the Government were giving large sums of money to the different local bodies in the district which the road passed through, and instead of spending the money, or a fair proportion of it, for this specific purpose the local bodies were spending it on by-roads leading perhaps to their own property, with the result that the public of Perth and Fremantle were sufferers. At one time it was—and he was sorry to say it was not very much better yet—the very worst main road, in his opinion, in any part of Australia; and the very worst maintained. The Government only asked for power to resume any such road where in the public interests it would be necessary for them to have resumption. Another instance was that of the main road between Kalgoorlie and Boulder, which also passed through a roads board district. There was a huge traffic on that road, but the road was not well kept. It required a great deal more money spent on it, and the Government would be wise to resume that road if they had the power to do so. It had been stated that if the Government resumed such roads, and those roads passed through roads board districts, the Government would also have to supply lighting. But he (Mr. Thomson) did not think that the Government would be responsible for the lighting. This was an example to his mind of the great necessity of giving the Minister responsible for this Bill the power and opportunity of coming to this House and explaining the meaning of the wording of the several clauses.

HON. R. G. BURGESS: Would not one of the greatest blots in connection with this Government roads business be the carrying out of jobs by day labour, the same as on the Coolgardie Water Scheme, which no reasonable man in this community approved of? Hundreds of thousands of pounds had been wasted. We should be careful not to pass a measure that would cause to be squandered revenue which was wanted for other good works. We should guard the public expenditure.

HON. T. F. O. BRIMAGE: Personally he thought the Minister should have the

right to take any road from any municipality or roads board. He knew that the Government as a rule were very loth to take over roads from roads boards or municipalities; they did not want the trouble of supervision or of conducting them. He thought it was only on very exceptional occasions that they did this. Mr. Thomson had referred to various Government roads, and mentioned two in particular, namely the Fremantle Road and the Kalgoorlie and Boulder Road. The Kalgoorlie and Boulder Road had always been kept in good repair by the Kalgoorlie Roads Board. He did not think that if the Government took that road over they could do any better. Still he took it that there were exceptional occasions when the Government required the power to take roads over. Therefore he did not think there was any harm in the clause. If they wanted to take a road over, they would surely write to the board and say that such was their intention.

Amendment put, and a division taken.

HON. R. G. BURGESS claimed the vote of Mr. O'Brien, on the ground that the hon. member had crossed the floor after the Chairman named a teller.

HON. B. C. O'BRIEN: Neither teller had been named before he crossed.

Result of division:—

Ayes...	...	...	...	2
Noes...	...	...	...	16

Majority against ... 14

AYES.	NOES.
Hon. C. E. Dempster	Hon. T. F. O. Brimage
Hon. R. G. Burgess	Hon. J. D. Connolly
(Teller).	Hon. J. W. Hackett
	Hon. A. Jameson
	Hon. A. G. Jenkins
	Hon. W. T. Loton
	Hon. W. Maley
	Hon. E. McLarty
	Hon. M. J. Moss
	Hon. B. C. O'Brien
	Hon. G. Randell
	Hon. J. E. Richardson
	Hon. C. Sommers
	Hon. J. A. Thomson
	Hon. J. W. Wright
	Hon. B. C. Wood
	(Teller).

Amendment thus negatived.

HON. J. E. RICHARDSON moved that in line 1 of Subclause 1 the word "main" be inserted after "any."

HON. J. W. HACKETT: Would the hon. member explain the difference between main road and a Government road?

Amendment negatived.

HON. J. W. HACKETT moved that the words "and thereupon such road or part thereof shall cease to be a Government road" be added to Subclause 3. This would make it clear that a road ceased to be a Government road which by proclamation had vested in a council or a roads board.

Amendment passed, and the clause as amended agreed to.

Clauses 87 to 90, inclusive—agreed to.

Clause 91—Governor may vest control of any bridge, etc., in local authority :

HON. G. RANDELL moved that after "*Gazette*," in line 1 of Subclause 2, the words "and in some newspaper circulating in the district" be inserted. Full publicity should be given a notice that a road, bridge, ferry, or ford would be under control of the Minister.

Amendment passed, and the clause as amended agreed to.

Clause 92—agreed to.

Clause 93—Method of stopping or diverting a road :

HON. M. L. MOSS : In fairness to the Committee it should be pointed out that the clause would obviate the necessity for bringing in annual Roads and Streets Closure Bills. He did not believe in the clause, which would enable the Minister to close roads and streets without resorting to the expedient always hitherto adopted of obtaining a special Act of Parliament. To close a road might interfere considerably with a man's property. Should the Government be given such power ?

HON. J. W. HACKETT : The House was eminently obliged to the Minister for his candour in explaining the position, as it had appeared that the clause dealt with Government roads only, whereas it practically gave the Minister power to close any road, whether passing a man's house, leading to his farm, or abutting on a street ; and even a street might be closed. The purchaser of an estate had a right to access by all roads in the neighbourhood, and a right to be consulted as to closures. Under this clause the Railway Department, for example, could close any road they pleased. He moved that the clause be struck out.

HON. C. E. DEMPSTER : There was something to be said in favour of the provision. Frequently roads were found

unserviceable after they had been surveyed.

HON. J. W. HACKETT : Such roads could be closed in future as they were now closed, by Act of Parliament.

HON. C. E. DEMPSTER : Other roads more suitable to the public requirements could be surveyed afterwards. Why should an Act of Parliament be necessary to close unsuitable roads ? Ministers would only be too anxious to carry out the wishes of the people. This Bill, however, constituted almost an infringement of the rights of all roads boards throughout the State. It was undesirable to take away the powers of these bodies.

HON. E. McLARTY disagreed with Mr. Dempster's view. How were the two classes of roads referred to by the hon. member to be discriminated ? The present system should certainly be adhered to. It would be a serious thing to invest the Minister with power to close any road without reference to the local authorities. He supported the amendment.

HON. G. RANDELL : Under the Roads Act he believed there was an ultimate appeal to the Governor before a road could be closed, which provision was very different from that in this Bill. He supported the amendment. The clause constituted a real blot on the measure, and they owed thanks to the Minister in charge for drawing attention to the matter. There was a proper way of closing or diverting roads for a special purpose, and that was by Act of Parliament. In such circumstances, the attention of those concerned must necessarily be directed to the matter.

HON. R. G. BURGESS : Under the Roads Act there was no necessity for a Bill to authorise the closing of a road. He was glad to observe that hon. members were repenting, and were falling in with his views.

Amendment passed, and the clause struck out.

Clause 94—If a road stopped or diverted, it may be sold :

HON. M. L. MOSS : As a consequential amendment on the striking out of the last clause, he moved that this clause be struck out.

Amendment passed, and the clause struck out.

Clause 95—Removal of drift wood, etc., from rivers:

HON. R. G. BURGESS: Material removed from rivers might be valuable. The clause provided that anything removed might be sold to recoup the expense of removal. This required explanation.

HON. J. W. HACKETT: The words "any earth or stone," in lines 2 and 3, were the important words.

HON. G. RANDELL: Clauses 95 to 99 were among the most important in the Bill, and deserved careful consideration. Some of these clauses would inflict hardship on private owners.

HON. R. G. BURGESS moved that Clause 95 be struck out.

HON. M. L. MOSS: One naturally expected to hear the hon. member adduce some reason for the striking out of an important clause.

HON. R. G. BURGESS said he had given good reason already. Material might be removed, and sold to recoup the cost of removal, without the owner's consent, and to his great detriment. Thus serious loss might be occasioned.

Amendment negatived, and the clause passed.

Clause 96—Where obstruction to river likely to cause damage, owner of land abutting may be required to clear same:

HON. G. RANDELL: The power proposed to be given the Minister under this clause might operate most harshly on the owners of land abutting on flowing streams where navigable. The removal of obstacles to navigation was to the general interest of the community, and therefore the cost of the work should not be a charge on the particular owner, but should be borne by the State. The Bill altogether was so worded as to perpetrate injustice to owners of land abutting on rivers which constituted highways for the community at large. While the power proposed to be vested in the Minister was necessary, the expense of exercising that power should be met out of the public chest. Clause 95 provided all that was necessary, and he therefore moved that this clause, 96, be struck out.

HON. R. G. BURGESS: No doubt this clause was the result of some lunatic having impressed his views on the Government. Ministers did some most extra-

ordinary things. A sum of £200 had been spent in damming up that pool of pea-soup known as the Avon River, and serious results might be expected in the course of the summer. Clauses from 95 to 99 ought to be struck out.

Amendment passed, and the clause struck out.

Clause 97—Governor may direct banks of rivers to be protected, or may alter river, or dam up waters:

HON. G. RANDELL wished the Minister to give some explanation with regard to the large powers referred to in this clause.

HON. M. L. MOSS: There was no doubt the result of the clause if passed into law would be that parliamentary authority would be given to do the various things mentioned in the clause. Those powers would interfere very largely with riparian proprietors all down the course of the various streams, and undoubtedly would seriously interfere with a valuable adjunct of the property, namely the free flow of the water.

HON. R. G. BURGESS moved that the clause be struck out.

Amendment passed, and the clause struck out.

Clause 98—Minister may erect bridges:

HON. R. G. BURGESS moved that the clause be struck out.

HON. G. RANDELL: The hon. member was, he thought, going a little too far. It was desirable that the Minister should have this power.

Amendment negatived, and the clause passed.

Clause 99—Bed of every river to vest in Crown:

HON. M. L. MOSS: When speaking on the second reading of the Bill, he said there would be no objection to this clause being struck out. When the clause was originally drawn, the idea was that the bed of every river up to high-water mark should be the property of His Majesty. The word "tidal" had been inserted. The common law declared that the bed of every tidal river vested in the Crown. The Government were not very particular whether the clause was retained or struck out.

HON. T. F. O. BRIMAGE: It was generally known that some rivers in Western Australia contained mineral, and

very likely dredges would be introduced in time to come. He thought the bed of the river should belong to the Crown.

HON. J. W. HACKETT: There was another reason why the bed of a river should belong to the Crown. Parts of these tidal rivers were the chief spawning grounds of valuable varieties of fish. A question had been raised as to whom the property vested in. It was clear that in the interests of the community it should be the property of the Crown.

HON. R. G. BURGESS: What was the meaning of "tidal"?

HON. M. L. MOSS: The Swan was a tidal river.

HON. R. G. BURGESS: How high up?

MEMBER: Just so far as the tide itself.

HON. J. W. HACKETT: To where the salt water from the ocean made its way.

HON. A. G. JENKINS: One would like information about private properties on the Swan. What about the Association Cricket Ground?

HON. M. L. MOSS: This would not affect those properties.

HON. A. G. JENKINS: It would. The clause said the bed of every tidal river up to high-water mark should belong to the Crown. If that were passed, property abutting on the Swan would belong to the Crown.

HON. M. L. MOSS: In the case of tidal rivers the properties belonged to the Crown now.

HON. A. G. JENKINS: Personally he did not think they did. The land he referred to had been bought and paid for, and if this clause were passed there would be nothing to prevent the Crown from taking it away. For instance, the Association Cricket Ground would vest in and become the property of the Crown. [MEMBER: Oh, no.] He believed that at the present time the bed of the river included the Association Cricket Ground, or it had done so. [MEMBER: It did not now.] It had done so. Grave injustice might be done to many property owners if the clause were passed. The clause should be struck out.

HON. J. W. HACKETT: It was to be hoped the clause would not be struck out. If the Association Cricket Ground had vested in the Crown at one time, the Crown had now vested it in the Associa-

tion trustees, so it could not possibly be touched.

HON. A. G. JENKINS: The Crown could resume it.

HON. J. W. HACKETT: No. The Crown had already parted with it.

HON. G. RANDELL: Some Perth town lots to the eastward ran several yards into the river, therefore they were always under high-water mark; but he thought that if the land were reclaimed it would be the property of the owners of those allotments. The fee simple had been granted of all the allotments lying between Government House grounds and the Causeway bridge, and possibly this clause might interfere with the rights of people who held these allotments. At any rate, we should strike out the word "winter." Ordinary high-water mark would be sufficient for all purposes. "Winter" might be misinterpreted from the fact that sometimes there was flood-water, and we knew this clause was not intended to apply to flood-water. He did not think the Association Ground would ever be overflowed by the rising tide only. He moved that "winter," in line 1, be struck out.

SIR GEORGE SHENTON: In 1863 (he thought), again in 1872, the water came over the whole of the roadway up to Mt. Eliza.

HON. J. W. HACKETT: But that was not ordinary tide water.

SIR GEORGE SHENTON: But taking the winter high tides, there might be a very heavy one during the year. He thought the difficulty existed more particularly in relation to the point to which Mr. Randell had drawn attention, that for all the allotments lying between Government House grounds and the Causeway bridge the fee simple had been given; and those allotments extended so many chains from Adelaide Terrace into the river.

HON. A. G. JENKINS: If any member would look at the city plan of Perth he would see that the bed of the river ran up Lord Street, Hill Street, Bennett Street, and Plain Street, in some cases fully a chain or two chains into all those grants along Adelaide Terrace, taking in a considerable portion of the Perth Horticultural Ground. All that, if the clause were passed, would become the property of the Crown.

HON. J. W. HACKETT: No. The Perth Horticultural Ground was the property of the Crown. It had never been vested.

HON. A. G. JENKINS: Anyhow, there was a considerable portion, and if this clause were passed as it stood the land would be taken away.

HON. E. McLARTY: The Committee should not pass the clause in its present form. The Swan was not the only river to be considered. He could speak from experience of the River Murray, which was less than a chain in width, but he had seen it 20 chains across.

HON. M. L. MOSS: That was not its ordinary state.

HON. E. McLARTY: Winter after winter for years together he had seen it that width. Was the Crown going to take possession of all those rich alluvial flats along the river because the water overflowed them? [MEMBER: No.] A clear definition of "river bed" was needed. During the last few days, Government men had entered on his private land, cutting away the banks and throwing the clay into the river—by what authority did not appear. Possibly they maintained they were working below high-water mark. Undoubtedly the bed of the river should vest in the Crown. On the lakes of the Serpentine River, one of the most important spawning grounds in Australia, net fishing destroyed millions of fish per day; on a prosecution, the magistrate decided that the Crown had no jurisdiction over the river; and as the appeal had not yet been heard, the destruction of fish continued. In many places the low-lying river flats, the richest land in the State, were flooded year after year. Surely this would not be considered Government land. Last Easter visitors camped on the river banks near his growing crops. To this he (Mr. McLarty) did not object; but he warned them of the danger of fire, told them they were trespassers, and the reply was, "This land belongs to the Government."

HON. J. E. RICHARDSON: Mr. Randall's amendment would meet the case. It was well understood that a "tidal river" meant one where the tide flowed in and out every six hours in an ordinary manner. A winter flood should not be considered in determining the high-water mark.

HON. J. A. THOMSON opposed the amendment. The clause was very necessary. On the Swan River he had land, a portion of which would be taken by the State were the clause passed; but the interest of the general public should be considered. There was a difference of some twenty or thirty yards between summer and winter high-water marks on the Swan; and the fact that in winter the river sometimes considerably overflowed adjacent lands was no reason for ignoring the winter high-water mark.

HON. E. McLARTY: On the Murray the overflow sometimes reached ten chains.

HON. J. A. THOMSON: Those would not be ordinary occasions. The Government needed this power, because it would soon be necessary to reclaim much land on the Swan.

HON. R. G. BURGESS: Resume, and pay for it.

HON. J. A. THOMSON: It was not right that the State should have to pay. No private person had a right to claim a river frontage.

HON. R. G. BURGESS: Yes; if he bought it.

HON. J. A. THOMSON: It would be different where persons had reclaimed. The Perth Council claimed a portion of the foreshore; some councillors maintained the city owned the fee simple of the river; and the clause would prevent annoyance and possible litigation as to conflicting claims.

HON. W. MALEY: All must agree as to the wisdom of reserving for the Crown the whole of the river bed up to high-water mark; but where portions of the river bed had been sold, the Government must in honesty stick to their bargain and not resume without payment what had been sold and paid for. Vested interests must be protected; though if there were none the Government had a right to resume the whole of the river bed from shore to shore, as might be advisable in the interests of pisciculture. He would oppose the clause.

Amendment passed and "winter" struck out.

Clause as amended put, and a division taken with the following result:—

Ayes	...	...	...	12
Noes	...	...	...	6

Majority for ... 6

AYES.
 Hon. C. E. Dempster
 Hon. J. W. Hackett
 Hon. A. Jameson
 Hon. W. T. Loton
 Hon. E. McLarty
 Hon. M. L. Moss
 Hon. G. Randell
 Hon. J. E. Richardson
 Hon. C. Sommers
 Hon. J. A. Thomson
 Hon. J. W. Wright
 Hon. T. F. O. Brimage
 (Teller).

NOES.
 Hon. B. G. Burges
 Hon. J. D. Connolly
 Hon. A. G. Jenkins
 Hon. W. Maley
 Hon. B. C. Wood
 Hon. B. C. O'Brien
 (Teller).

Clause as amended thus passed.

HON. M. L. MOSS moved that progress be reported.

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

Ayes	...	...	10
Noes	...	...	8

Majority for ... 2

AYES.
 Hon. J. W. Hackett
 Hon. A. Jameson
 Hon. W. T. Loton
 Hon. E. McLarty
 Hon. M. L. Moss
 Hon. G. Randell
 Hon. J. E. Richardson
 Hon. Sir George Shenton
 Hon. C. Sommers
 Hon. B. C. Wood
 (Teller).

NOES.
 Hon. T. F. O. Brimage
 Hon. R. G. Burges
 Hon. J. D. Connolly
 Hon. A. G. Jenkins
 Hon. W. Maley
 Hon. B. C. O'Brien
 Hon. J. A. Thomson
 Hon. C. E. Dempster
 (Teller).

Motion thus passed.

Progress reported, and leave given to sit again.

ADJOURNMENT.

THE MINISTER FOR LANDS moved that the House do now adjourn.

HON. R. G. BURGES said he desired to move an amendment.

THE PRESIDENT: The hon. member could not move an amendment, but could vote against the motion.

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

Ayes	...	...	10
Noes	...	...	7

Majority for ... 3

AYES.
 Hon. H. Briggs
 Hon. T. F. O. Brimage
 Hon. J. W. Hackett
 Hon. A. Jameson
 Hon. W. T. Loton
 Hon. N. L. Moss
 Hon. G. Randell
 Hon. C. Sommers
 Hon. B. C. Wood
 Hon. E. McLarty (Teller).

NOES.
 Hon. B. G. Burges
 Hon. J. D. Connolly
 Hon. C. E. Dempster
 Hon. A. G. Jenkins
 Hon. W. Maley
 Hon. B. C. O'Brien
 Hon. J. A. Thomson
 (Teller).

Question thus passed.

The House adjourned accordingly at 9:55 o'clock, until the next day.

Legislative Assembly, Wednesday, 5th November, 1902.

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THE SPEAKER took the Chair at 7:30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

BY THE MINISTER FOR WORKS: 1, Tonnage of goods through the East Perth Railway Station for twelve months ended September, 1902. 2, Alteration to Classification and Rate Book, relating to breakage of journey, freight on sandalwood, concession to policemen travelling on leave.

Ordered: 'To lie on the table.

QUESTION—RAILWAY REFRESHMENT CARS, TUNNEL.

MR. HIGHAM (for Mr. Hopkins) asked the Minister for Railways: 1, Whether it is true that the refreshment cars ordered are too large to pass through the railway tunnel. 2, If so, who is responsible for the error.

THE MINISTER FOR RAILWAYS replied: 1, No. 2, answered by No. 1.

KALGOORLIE ELECTRIC POWER AND LIGHTING CORPORATION SPECIAL LEASE BILL.

Introduced by the MINISTER FOR MINES, and read a first time.

RETURN—PRINTING OF BOOKS (LETTER-PRESS AND ACCOUNT).

On motion by MR. DAGLISH, ordered: That a return be laid upon the table of the House, showing the amount of letter-press and account book work ordered by each of the Government departments from private printing firms during the period from 1st July to 31st October.