was aware that the Magistrates might dispense with these restrictions and prohibitions with regard to any particular house, so that if there was any licensed house on a line of road where travellers were likely to pass late at night, it was quite open to the Magistrate to remove this restriction as to supplying liquors after 10 o'clock. He should have thought that the removal of the restriction was likely to prove a source of annoyance rather than of profit or convenience to the licensee of these houses. If the amendment passed, a landlord would be liable to be turned out of bed at any hour to supply a man who happened to travel past his house, with a glass of beer.

The motion was negatived, upon a division, by a majority of 11 to 3.

Progress was then reported, and leave given to sit again at the next sitting of the House.

NEWSPAPER (LIBEL AND REGISTRATION) BILL.

Read a third time and passed.

The House adjourned at eleven o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 25th August, 1884.

Sir Julius Vogel's Submarine Cable Scheme—Extension of Mail Service to Arthur River—Presbyterian Church Bill: first reading—Cattle Trespass Act, 1882, Amendment Bill: first reading—Wines, Beer, and Spirits Sale Act, 1880, Amendment Bill: further considered in committee—Deeds of Grant Bill: further considered in committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

SIR JULIUS VOGEL'S SUBMARINE CABLE SCHEME.

THE HON. J. G. LEE STEERE, in accordance with notice, asked the Colonial Secretary whether the Government had received any further information beyond what had been communicated to the Council, respecting the proposal of Sir Julius Vogel to lay a submarine cable from Western Australia to Ceylon?

THE COLONIAL SECRETARY (Hon. M. Fraser) replied that no further information had reached the Government.

MAIL SERVICE TO ARTHUR RIVER.

MR. BROWN, in accordance with notice, moved, "That an humble address "be presented to His Excellency the "Governor, praying that he will be pleased "to place upon the Estimates a sufficient "sum of money to cover the cost of "extending to the Arthur River the "existing monthly mail service between "Geraldton and Nookawarra." The hon. member explained that the Arthur River referred to was a tributary of the Gascoyne. It was estimated that the cost of the service would not exceed about £100, and, as there was already a sum of £80 left from the vote of £300 granted last year for the service from Geraldton to Nookawarra, this extended service, which would be a great boon to the settlers in the neighborhood, would virtually only cost the colony some £20 or £30 more than had already been voted for its inland mail service.

THE COLONIAL SECRETARY (Hon. M. Fraser) was sure, when the hon. member saw the Estimates which he hoped to lay on the table in the course of a few days, and observed the immense sums which the House would be asked to vote for the upkeep and maintenance of mail and telegraph services throughout the colony, the hon. member would, in view of the efficient manner in which the settlers generally in these districts were already served in the matter of mail communication, be satisfied to let this additional service remain in abeyance for another year. He was aware there was a link yet to be filled in, to complete the chain of communication, but he thought the settlers might for another year at any rate avail themselves of one or other of the two circuit services already provided for them.

MR. BROWN was quite sure the present Government were alive to the necessity and desirability of providing

the settlers with mail facilities to as great an extent as was consistent with the funds at their disposal, and he knew there was a heavy demand upon these funds. But he did think that what these Gascoyne and Upper Murchison settlers asked for was not unreasonable. There had been a certain amount of dissatisfaction among the settlers as to the amount of convenience granted to them, and, up to very lately, there had been good ground for that dissatisfaction. He hoped the House would agree to this address, and when the Estimates came before them, hon. members would then be able to see whether the money could be spared or not.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said the sum asked for was not very large, and, under ordinary circumstances, no doubt a great many members would be inclined to go with the motion; but, for his own part, he thought the Gascoyne district was already admirably well served in the matter of mail communication. From his own knowledge there was no other district in the colony, with so sparse a population, so well served in this respect. There were other parts of the North, which had been settled for nearly twenty years, which had no such facilities yet provided for them, and he did think it was rather too much of a good thing that the hon. member for the Gascoyne should again come forward and ask for still more services for the settlers of the Upper Murchison and the Gascoyne, where there was not a handful of people altogether.

The motion was then put and passed.

PRESBYTERIAN CHURCH BILL.

MR. S. H. PARKER, in accordance with notice, moved for leave to introduce a Bill to incorporate certain Office Bearers of the Presbyterian Church, and for other purposes.

Motion agreed to, and bill read a first time.

CATTLE TRESPASS ACT, 1882, AMENDMENT BILL.

MR. S. H. PARKER, in accordance with notice, moved for leave to introduce a Bill to amend "The Cattle Trespass, Fencing, and Impounding Act, 1882."

Motion agreed to, and bill read a first time.

WINES, BEER, AND SPIRITS SALE ACT, 1880, AMENDMENT BILL.

The House then went into committee for the further consideration of the additional clauses proposed to be introduced into this bill.

MR. S. H. PARKER said the next new clause which stood in his name was one to amend the 34th section of the principal Act, relating to the transfer of licenses. Under this section a person who obtained a transfer had to apply at the next licensing meeting for an original license, in respect of which he would have to pay the license fee due for the remainder of the year, although the licensee who had transferred the license to him had paid the full fee for the whole year. In this way, if a transfer took place in June, the transferee would (under the new clause introduced the other day) have to pay one half of the annual fee, although the transferor had already paid for the whole year, so that in this way the Treasury would be receiving two payments in respect of the same license for the same half year. The amendment he proposed to introduce was—by inserting the word "December" between the words "quarterly" and "licensing meeting"—to make the temporary license granted by the Resident or Police Magistrate, when a transfer is made, to endure until the next December quarterly meeting of the Licensing Bench, when fresh licenses for the ensuing year were dealt with, and thus avoid the necessity of two licensing fees being paid for one and the same period.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he quite understood the object of the amendment, but he could not help thinking it would have been better to have put it in another form. It might be a hardship that a man should have to pay an additional fee in respect of a considerable period of the year for which a fee had already been paid by his predecessor; at the same time he would point out that the amendment here proposed would be a departure from the principle of the licensing Act, under which all discretionary power was vested in the licensing bench, the only powers granted to the Resident or Police Magistrate being powers to deal with temporary licenses, or what he might call cases of emergency. Here it was proposed to

give the Magistrate power to grant a license over a period which would extend beyond the next licensing meeting, and might virtually endure for the greater portion of the year, which would be a departure in principle from the whole scope of the Act.

Mr. BURT said he quite agreed with the Attorney General, and the same thing had struck him when consolidating the present Act. A transfer might take place early in April, and, if this amendment were carried, we should be putting it within the power of a Resident Magistrate, who was not the licensing authority constituted under the Act, to grant a license for nearly a whole year. The existing provision had been the law for the past twelve years to his knowledge, if not longer; and, if there had been any injustice wrought under it, it would have been apparent before now. The same argument as to double fees would apply in the case of the forfeiture of a license.

Mr. S. H. PARKER said, although the clause had been in operation for twelve years, the Government had not acted upon it until quite recently. Usually when a new license was applied for, or a transfer made, the Colonial Treasurer at Perth did not exact a double fee, and it remained for a Resident Magistrate at the North to discover the latent virtue that lay in the clause, and this gentleman insisted upon a new license fee being paid by the transferee. As to the principle of the Act being departed from, he would point out that the very next section empowered a Magistrate to grant an agent, in certain cases, authority to carry on the business for at least six months, without any renewal or formal transfer at all, if a license had that time to run. He did not think it would be more inconsistent with the principle of the Act to give a Magistrate the power which the amendment sought to give him than was this power to grant an agent authority to carry on the business until a license expired by the effluxion of time. As to the same objection applying to the forfeiture of a license—the objection of a double fee—when a license was forfeited it was absolutely gone, which was not the case with a transfer. When a license was merely transferred from one person to another the license was still in existence. He did not suppose any great hardship was likely to occur in Perth from the operation of the Act as it now stood, the Colonial Treasurer being a gentleman of 'broad and comprehensive' views; but there were sub-collectors of Customs in the country districts who would take advantage of every opportunity which they found the law granted them of bringing revenue into the Treasury.

The ATTORNEY GENERAL (Hon. A. P. Hensman) said the power referred to as being vested in the Magistrates by the 35th clause was not an analogous case. That was a clause in which the executor or administrator of a deceased licensee, or the assignee of an insolvent, sought to carry on the business, by an agent, for the benefit of the estate,—a business which he would be legally entitled to. All the Magistrate was authorised to do was to put in an agent until the estate was wound up, which was quite a different thing from transferring a license to a new lessee. It might be that cases might arise when, a licensee desiring to transfer his license, it might not be desirable that the license should continue except by a fresh payment to the Treasury.

Mr. S. H. PARKER said the Attorney General appeared to draw a distinction in principle between an executor or administrator being legally entitled to carry on a business, and a transferee under the Act being entitled to carry on a business. Did the hon. and learned gentleman not consider that a person who bought a business was legally entitled to it, as much as the executor of a deceased person or the assignee of an insolvent? For his own part he failed to see where the distinction came in.

The ATTORNEY GENERAL (Hon. A. P. Hensman): I said the latter became entitled to carry on the business by operation of the law.

Mr. S. H. PARKER: The hon. gentleman said nothing of the kind. The hon. gentleman said an executor or administrator would be legally entitled to the business,—from which one would infer that a purchaser of a business is not legally entitled to it. There may be a distinction in principle, but I fail to see it.

The ATTORNEY GENERAL (Hon. A. P. Hensman): Then all I can say is, the hon. member cannot see very clearly

into a proposition, if he cannot see the difference between a person who obtains a business by purchase and a person who becomes entitled to it by devolution of law.

The new clause was then put and negatived, on the voices.

THE HON. J. G. LEE STEERE, in accordance with notice, then moved the following additional clause: "No person "shall be deemed a *bonâ fide* traveller, "within the meaning of the principal "Act, unless he shall reside at least five "miles from the licensed premises where "he shall be supplied with liquor or re-"freshment, and shall have travelled at "least that distance on the day when he "shall be so supplied. Every person "who, by falsely representing himself to "be a *bonâ fide* traveller or a lodger, "shall buy or obtain, or attempt to buy "or obtain, at any licensed premises, "liquor or refreshment during Sunday, "Good Friday, or Christmas Day, or "between the hours now prohibited "under the fifty-ninth section of the "principal Act, shall forfeit and pay for "every such offence a fine of not less "than Five pounds nor more than Ten "pounds." The hon. member said he had been induced by two reasons to bring forward this clause. One was to remove the difficulty which magistrates now labored under in defining who is a *bonâ fide* traveller—a difficulty which he himself had experienced as a magistrate, and which he knew other magistrates had experienced. The other was that the man who deliberately induced a publican to commit an offence, by falsely representing himself as a *bona fide* traveller, should be punished as well as the publican,—which he thought was only fair and reasonable. Under the existing Act there was no definition given of a "*bona fide* traveller," yet if a publican served a man on Sunday or other prohibited time with drink, who was not a *bona fide* traveller, the publican was liable to very severe punishment indeed, and, in this respect, he was liable to be the victim of any arbitrary definition which a magistrate might give to this expression, "*bona fide* traveller." One magistrate might consider that a man was not a *bona fide* traveller if he had not travelled twelve miles, while another magistrate might be of opinion that if a man had journeyed two miles he was a *bona fide* traveller, within the meaning of the Act. He believed this was the only colony where no definition was given as to the meaning of the term, and the clause now before the committee was an exact copy of the South Australian Act, where five miles was the limit fixed. In Victoria the limit was ten miles, while the Queensland Act made it two miles. The laws of the various colonies differed as to the distance, but they all gave some definition to the expression. In England there had been a great deal of discussion on this point when the last licensing Act was brought into operation, but he thought he was correct in stating that three miles was the distance which it was determined at home should constitute a man a "*bona fide* traveller." He thought it would be admitted it was very desirable we should have some definition in our own Act, and it appeared to him that the distance mentioned in the South Australian Act was a fair and reasonable compromise. The latter part of the clause had also been taken from the South Australian Act, as to the punishment which a man ought to receive who falsely pretends that he is a *bona fide* traveller, for the purpose of obtaining liquor.

MR. MARMION drew attention to a difficulty which presented itself to his mind with regard to the wording of the clause. It might be very applicable to inland towns, but it opened up difficulties at once as regards seaport towns. Was it the intention to prevent the master or officers or crew of a vessel arriving in port on a Sunday or other holiday from obtaining necessary refreshments and accommodation at hotels? The clause provided that no person shall be deemed a *bona fide* traveller unless he "resided" at least five miles from the licensed premises; if that were the case it would be impossible to apply the definition to seafaring men.

THE HON. J. G. LEE STEERE said no doubt the difficulty which presented itself to the hon. member was provided for in the Acts of the other colonies.

MR. BURT said this attempt to provide a definition of the term *bona fide* traveller had his sympathy; and when he said that, he thought it was all he could say. From the investigations which the

hon. member for the Swan had made among the Acts of the other colonies, it was apparent that there was a considerable conflict of opinion on the subject, and some difficulty in arriving at a decision, the law of one colony making it two miles, while the law of another colony made it ten miles, and another five, and so on. It seemed to him that if we passed a clause worded on the lines submitted by the hon. member for the Swan —providing that if a man travelled five miles he should be entitled to be supplied with liquor at any time, and on any day —we should be opening the gate to serious evils. There were in this colony large works such as timber stations, employing a great number of men, and much difficulty was experienced, even under the present law, where there was a public house within walking distance, in preventing the men from going there and obtaining drink on Sundays; and, if this clause were to pass, the result would be that a whole swarm of these workmen would congregate every Sunday at the nearest public house, in the character of *bona fide* travellers, and they would be able to set the police at defiance. We could not lay down any hard and fast line in this matter, and he thought it must be left to the discretion of the bench of magistrates, before whom the case came, to say whether a man was a *bona fide* traveller or otherwise. The hon. member for the Swan said the English law made the distance three miles. He was not prepared to contradict the hon. member—he knew that was the law at one time, but he was under the impression that it had been repealed, and that at present the law in England gave no definition at all, leaving it to the discretion of the bench, and he thought that was the best course we could pursue here. It might be said, and said with truth, that it was a difficult thing for a magistrate to determine who was a *bona fide* traveller, and who was not. They all knew there were men here who would think nothing of travelling twenty miles if they thought they could get what they wanted in the shape of liquor, but where a magistrate would still be justified in not regarding them as *bona fide* travellers. On the other hand, there might be circumstances under which a man might be justly regarded as a *bona fide* traveller, although he had only come a short distance of a mile or two. It was a very difficult matter indeed to lay down any hard and fast line. The term was as indefinable, he thought, as was the word "neighborhood," which his hon. friend opposite (Mr. Randell) proposed asking them to define. With regard to the latter part of the clause, making it penal for a person to represent himself as a *bona fide* traveller, with intent to defraud a publican, he considered that a very desirable provision.

The ATTORNEY GENERAL (Hon. A. P. Hensman) agreed with the hon. member for the Murray that the definition of a *bona fide* traveller could not be properly put into any Act of Parliament, and he was surprised to hear it stated that the law in England at this time made it three miles. Certainly it was not so, when his attention was last directed to this matter. As to the difficulty of magistrates deciding who was a *bona fide* traveller and who was not, he did not think the difficulty was so great as it had been represented, if the justices would bear in mind the difference between the man who really had occasion to travel and the man who travelled for the sake of gratifying his taste for drink. Was the man an honest traveller proceeding on a journey, and desiring to obtain refreshment to sustain him on his journey, or had he proceeded on the road merely for the purpose of drinking? That was the question. It did not depend so much upon the actual distance travelled, as upon the object of the man in travelling. There might even be a difficulty in determining this, but he thought it might be left to the discretion of the magistrates to decide each case according to the attendant circumstances. If the House were to decide that five miles was the distance which a person had to travel in order to constitute him a *bona fide* traveller, there would be nothing to prevent people flocking on Sundays to any public house situated that distance (say) from Perth or Fremantle, and connected with those towns by rail, and they would thus be destroying the real test of what a *bona fide* traveller is. As pointed out by the hon. member for the Murray, a man might be a *bona fide* traveller who had only travelled two or three miles. Supposing a man started on a journey of

twenty or thirty miles, and, after travelling a short distance, he came to a public house, and there was no other inn along the road within fifteen miles, it would be a hard thing if the man could not have a glass of beer or a dinner at the first public house, simply because he had not come five miles. Then, again, how was a publican to know whether a man had travelled five or three miles,—and unless it could be shown that the publican had knowingly supplied the man who was not a *bona fide* traveller with drink, he could not be convicted. It had been decided in England, and he thought very properly, that you had no right to convict a man of crime unless he had a criminal knowledge. The true test was whether the traveller was honestly proceeding on his journey and taking refreshment by the way, or whether he had gone to the place simply to obtain liquor; and all a publican could do was to ascertain to the best of his ability if it was so or not. If the magistrate was of opinion that the publican knew the man came there to drink, the magistrate would be justified in convicting the publican; on the other hand, if he was of a contrary opinion, it was hardly likely that any magistrate, acting in the exercise of his judicial discretion, would convict. With regard to the latter part of the clause, it might be desirable to provide some penalty in the case of a man who deliberately obtained his liquor by falsely representing himself as a *bona fide* traveller,—though he was not quite sure whether such a man could not be dealt with under the law as to obtaining chattels under false pretences. That, however, would necessitate his being proceeded against by indictment.

MR. BURT then moved that the first part of the clause, as far as the word "supplied," in the 9th line, be struck out.

This was agreed to.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), referring to the penalty under the latter part of the clause, thought the maximum might be reduced. He thought £10 was rather a heavy fine upon a man for trying to get a glass of beer.

MR. LOTON said he was very much inclined to think the clause would prove inoperative, unless they went even further than the hon. member for the Swan proposed to go. It occurred to him that, for the most part, the people who were likely to come under the operation of this clause were people who would not have £2 in the world, much less £10, and that unless imprisonment was provided, a fine would be of no avail.

MR. S. H. PARKER said if the clause was necessary at all it was necessary for the protection of the publican, and he thought it would be a mistake to reduce the penalty. It must be borne in mind that if a publican should be convicted of a breach of the law in this respect, the penalty was a very severe one,—£50 for the first offence, and £100 for any subsequent offence, and, if the subsequent conviction should happen to be within twelve months after any former conviction, his license would be forfeited.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the punishment was in his opinion unduly severe. He had not noticed before that the penalty for the first offence could not be less than £50. That was a very heavy punishment for selling a glass of beer to a man who turned out not to be a *bona fide* traveller. Surely the intention must have been "not exceeding £50."

MR. MARMION: One of the most absurd provisions in the whole Act.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): It appears to me certainly too much. Perhaps the man himself may not know whether he is a *bonâ fide* traveller or not, and if he is thirsty and hot, I dare say he would be inclined to give himself the benefit of the doubt. Very little would persuade him that he was a *bonâ fide* traveller, and there might be a great difficulty even in the mind of the justices in deciding that he was not. It appears to me therefore that to render the publican liable to a fine of £50, and nothing less, if he gave his traveller the benefit of the doubt, is too severe a penalty altogether. At the same time, unless the justices are satisfied that he knew the man was not a *bonâ fide* traveller, they could not punish him at all. They must be satisfied that the publican had a guilty mind.

MR. MARMION said there seemed to him to be something unreasonable about the whole clause. Why should the man who represents himself as a *bona fide* traveller be the only person liable to

punishment for obtaining liquor on a Sunday, or after hours? Why should not every man who went to a public house and got drink during prohibited hours be punished in the same way?

Mr. BURT said the hon. member misunderstood the principle upon which the clause went. They did not punish the man so much for getting liquor when he ought not to get it as for making false representations in order to get it, the Act compelling the publican to serve him if he is a *bona fide* traveller. The Attorney General told them that if a publican decided honestly in his own mind that the man whom he served was a *bona fide* traveller, he (the publican) would not be liable to a penalty; but, on the other hand, should a deliberate attempt be made to impose upon him, and a successful attempt, he (Mr. Burt) thought the false pretender ought to be punished. He agreed, however, with the Attorney General that the maximum was too high, and he would move, as an amendment, that it be reduced to £5.

This was accepted, and the clause as amended ordered to stand part of the bill.

The Hon. J. G. Lee STEERE then moved the following new clause: "No "license under the principal Act shall be "required for the sale by any person, the "occupier of a vineyard or orchard of "not less than one acre in extent, and the "delivery after sale in quantities of not "less than one gallon, at any one time, "of wine, cider or perry, manufactured "by such person from fruit grown in the "colony. Provided that such wine, cider "or perry be not sold or delivered to any "one in a state of intoxication, and be "not consumed on the premises in the "possession or occupation of such occu-"pier or his servants, and be not sold or "delivered on Sunday." The hon. member said great complaints had been made for many years past by the proprietors of vineyards as to the impediments placed in their way in disposing of the produce of their vineyards. He himself had not thought these impediments were so much felt, but it appeared that those chiefly concerned regarded them as a hardship, and, if the law in this respect could be amended without injury to others, he thought the House might fairly be asked to do so. He found that in the other colonies vineyard proprietors were allowed, under certain restrictions, to sell wine without a license, and he saw no reason why we should not legislate in the same direction here. He did not for a moment intend that the owner of every little bit of vineyard should be allowed to obtain this privilege, which might lead to abuse, and he thought that by restricting it to the occupiers of vineyards not less than one acre in extent we should be confining it to the class in whose behalf it was introduced—*bonâ fide* vineyard proprietors. He believed it would give great satisfaction to this class, and at the same time give an impetus to an industry which he thought was bound to become an important one in this colony, and which we ought to do our best to foster.

Mr. LOTON pointed out that the clause as worded was a little inconsistent. It was intended to shut out the man whose vineyard was not an acre in extent from participating in this privilege, while, on the other hand, the man whose vineyard occupied an acre of ground would not only be allowed to make use of his own vines but also of the vines of his neighbor, who might be the owner of a small vineyard. So long as the grapes were grown in the colony—and not necessarily in his own vineyard—the one-acre man could go where he liked, and manufacture as much wine as he liked, and sell it without a license. He thought this was hardly fair to the small vineyard proprietor. The clause would not be so objectionable if it were limited to the fruit grown in a man's own vineyard.

The COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said the cultivation of the vine had always been talked of as an industry that ought to be fostered, yet those who embarked in it were surrounded with all sorts of restrictions. His own view of the matter was that if a man engaged in wine growing he should be as free to dispose of the fruits of his labors as any other cultivator of the soil, and therefore he was very glad indeed to see a clause of this kind inserted in the bill. He thought, however, that an acre was the smallest area that a man ought to cultivate before he should be looked upon as a *bona fide* vineyard proprietor. With regard to the quantity of wine allowed to be sold, he

doubted whether it would be wise to limit it to one gallon. He should have thought that a smaller quantity would have been better. The probability was that by compelling a man to buy a whole gallon they would tempt him to drink more than might be good for him, whereas if they allowed a man to call for just what he wanted to quench his thirst, he would just drink his glass or get his bottle, and go on his way rejoicing.

THE HON. J. G. LEE STEERE, replying to the objection put forward by the hon. member Mr. Loton, said he had put in the words "from fruit grown in the colony" advisedly, so that those who did engage in this industry might, if they chose, be able to buy their grapes from the owner of the adjoining vineyard, who, probably, on his part, would be glad to dispose of his fruit. With regard to the Surveyor General's suggestion as to limiting the quantity of wine allowed to be sold, he had no very fixed ideas as to the minimum quantity, and he should not offer any serious opposition to its being reduced. His only object in restricting the quantity to a gallon was to prevent people congregating about these places simply to get drink.

MR. MARMION said he always felt sorry to oppose anything which upon the face of it appeared to be calculated to benefit any colonial industry. But it seemed to him that if this colonial wine business must be supported in this way, by the free sale of all wine made from fruit grown in the colony, there was no reason why, logically, we should not allow the free sale of spirits that might be distilled from these grapes, and the free sale of all beer brewed in the colony from malt grown in the colony,—a beverage which he believed was far less intoxicating than colonial-made wine. It seemed to him that this movement in favor of colonial wine makers was based upon sentiment rather than logic or reason. There seemed to be an idea among vineyard proprietors and wine makers that it was derogatory to their dignity to have to take out a license for the sale of their wine. Was it derogatory to the dignity of many hon. members of that House and of men holding a high position in the colony to take out licenses as wine and spirit merchants, or as retailers of wine, beer, or spirits by the gallon? Then, again, why should this privilege be restricted to the large vineyard proprietors any more than their neighbors who might not happen to have an acre under cultivation? The license fee now charged for the sale of colonial wine was very small, but small as it was it afforded some check upon the abuses which the sale of any intoxicating liquor was liable to, as it enabled the authorities to know where these liquors were offered for sale. Individually he cared very little whether the clause passed or not, but he saw many objections to it, on the grounds already stated.

MR. BROWN said he intended to support the clause. We had been attempting wine making for many years now, and the result in many cases had been excellent. Yet our vineyard proprietors complained very much of the disabilities they labored under, and he thought if these disabilities could be removed without doing any harm they might as well be removed. Should it be found to lead to abuses and to those scenes of debauchery which some hon. members seemed to anticipate, the law in this respect might be again altered, and greater restrictions imposed.

MR. BURT presumed there would be no objection on the part of the hon. member for the Swan to extend the operation of the clause to other holidays recognised under the principal Act—Good Friday and Christmas Day. [MR. FORREST: They don't know when Good Friday is, in the country.] He also noticed that no penalty was provided for allowing the wine to be consumed on the premises.

MR. RANDELL said the license now payable for the sale of colonial wine was only £2 a year, and if the industry was at so low an ebb that it was believed the remission of this small fee would lead to its prosperous development, well, he thought, the House would by acclamation agree to the clause. The Commissioner of Crown Lands told them he saw no reason why any restriction should be placed upon this any more than any other industry; but the hon. gentleman must be aware of the fact, universally recognised, that the sale of intoxicating liquors was a business that, in the interests of society at large, must be controlled by sumptuary legislation, and be

placed on a different footing from other industries. The hon. member for Fremantle referred to a sentimental objection felt by respectable settlers to see their names figuring in the newspapers as applicants for a colonial wine license. He (Mr. Randell) also thought it was rather an indignity; but not so much so as to sell the wine afterwards to their laborers and neighbors, and in this way to encourage the depraved habit of drinking to excess. He should be very sorry indeed to see the quantity allowed to be sold reduced to a bottle or a glass. He thought the growers of wine might be very well content to let the law stand as it is. He was not at all in sympathy with the clause, for his own opinion was that it would tend very much to increase the evils of drunkenness in our midst, whilst on the other hand it would prove of scarcely any benefit to the vineyard proprietors as a body.

THE HON. J. G. LEE STEERE believed the great grievance with the proprietors was not the payment of the small license fee of £2 or advertising in the newspapers, but the annoyance of police supervision which a license entailed. As to the penalty following upon an infraction of the clause, he had been informed by a legal member of the House that it would be unnecessary to provide for a penalty, as the person who infringed the provisions of the clause would be amenable to the same punishment as a person selling drink without a license.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he did not rise to oppose the clause in the sense of wishing or intending necessarily to vote against it; at the same time he thought it was a question upon which there was a great deal to be said on both sides, though for his own part he should like to see it decided by those who were practically acquainted with the results likely to accrue. But it did seem rather strange that a person who had a vineyard of three-quarters of an acre should have to pay £2 before he could sell any wine, whereas the owner of a one acre vineyard had to pay nothing at all for the same privilege. They were told that the main object sought to be obtained was to keep those persons who sold wine without a license out of the provisions of the Police Act. He should have thought, *prima facie*, that it would be desirable rather to bring them under the provisions of the Police Act, otherwise they might do anything with impunity, unless under some supervision. Something had been said about the dignity of these persons,—was it not rather insulting to people who were so respectable as to consider their dignity affected by having to apply for a license, to suppose, as this clause supposed, that they might sell this wine to "anyone in a state of intoxication?" As to any penalty—speaking on the spur of the moment, he should say that as these persons would not be licensed they would not be under the Act at all, and therefore it appeared to him at present there would be nothing to prevent them selling anything to an intoxicated person. Anyone could sell bread for instance to an intoxicated person, without committing an offence. It seemed to him that unless a penalty were provided there would be no means of enforcing the clause.

MR. BURT then moved an amendment to add the words "Good Friday and Christmas Day" to the clause, also a penalty not exceeding £10 for any infringement of the clause.

The committee divided upon this amendment, with the following result—

Ayes	10
Noes	8
Majority for ...	2

AYES.	NOES.
Hon. M. Fraser	Hon. A. P. Hensman
Hon. J. Forrest	Mr. Mason
Mr. Brown	Mr. Glyde
Mr. Burt	Mr. Higham
Mr. Davis	Mr. Loton
Mr. Hamersley	Mr. McRae
Mr. S. S. Parker	Mr. Randell
Mr. S. H. Parker	Mr. Marmion (*Teller.*)
Mr. Venn	
Hon. J. G. Lee Steere (*Teller.*)	

The amendment was therefore adopted, and the clause as amended was ordered to stand part of the bill.

MR. RANDELL then moved the following new clause standing in his name: "Whereas, by the 25th section of "the principal Act, it is provided that "the Licensing Magistrates shall determine what is to be deemed the 'neighborhood' for the purposes of the said "section, such Licensing Magistrates "shall, whenever notice of opposition to

"the granting of a license is given, at "once define and make public, either in "open Court or by notice in a news- "paper, such neighborhood; and, further, "the area embraced in such defined "neighborhood shall be a fair and "reasonable one, the residents of which "would be affected by the granting of "such license." The hon. member said there were two clauses in the principal Act dealing with the right of opposing a license—the 24th and 25th. The former empowered any ratepayer in the district to object to a license being granted, upon certain defined grounds, and the latter referred to the rights of corporate bodies to object—though the concluding portion of the clause appeared somewhat mixed, as it seemed to refer to a majority of the ratepayers in the neighborhood, rather than to any corporate body. The hon. member for the Murray seemed to imagine that in bringing forward this new clause he was attempting to define what was indefinable. He did not think so himself. The clause at any rate was in no way hostile to the hotel-keeper, but rather in his favor. as it would enable him to know the radius within which he might have to encounter opposition. That there was some necessity for such a clause would, he thought, be admitted. He had heard that in some cases a most extraordinary scope had been given to the meaning of this word "neighborhood." Sometimes it was held to mean the whole district, in other cases perhaps a very limited radius. No doubt in the majority of cases, the licensing magistrates would be guided by a common-sense view, but in view of the possibility of an interpretation being put contrary to a common-sense view, he thought it would be desirable to make some attempt to avoid such a contingency, and that this would be done if the magistrates upon any opposition being made should define the neighborhood where this principle of local option should be put in force. He proposed to strike out the latter part of the clause, which might possibly be regarded as a reflection upon the fairness and reasonableness of the licensing bench, although no such reflection was intended; and, in lieu of it, he proposed to move a proviso to the effect that, in all cases of opposition, at least two weeks notice shall be given to the clerk of the court to which the application for a license had to be made.

Mr. S. H. PARKER pointed out that the notice of application had only to be published seven days before the application was made; therefore the proviso proposed, if carried, would necessitate an alteration of the Act in that respect. The licensing bench had no jurisdiction as such until they met for that purpose, and therefore it would be impossible for them to deal with any opposition offered a fortnight before they became a duly constituted licensing body.

The ATTORNEY GENERAL (Hon. A. P. Hensman) thought the Act as it now stood really provided all that was necessary. The word neighborhood was one which it was quite competent for the magistrates, without any great difficulty to decide in each case as it came before them, whereas it would be impossible to give any hard and fast definition to the word that would apply in every case. In a country place it might be a radius of ten miles, and in a town like Perth a radius of two or three streets. The grounds upon which the objections to a license issuing must be made were very clearly defined in the two clauses named, and indicated pretty plainly what the meaning of the word neighborhood was. Should any objection be made, the magistrates were bound, if requested to do so by the applicant for a license, to grant an adjournment, and in the meantime it would be their duty, under the 25th clause—whether they were called upon to do so or no—to define what was to be deemed a neighborhood for the purpose of the clause.

Mr. RANDELL said he was glad to have elicited an opinion from the Attorney General on the point, though he could not agree with the hon. and learned gentleman as to the clearness of the 25th clause, which certainly was entirely unintelligible to himself, and his surprise was that there had not been more friction with reference to it. He had brought forward this clause simply in an honest endeavor, as he thought, to make the Act more intelligible, but he should be sorry to propose a clause that would necessitate the remodelling of an Act that had been so recently consolidated.

The ATTORNEY GENERAL (Hon. A. P. Hensman) said he had no doubt the

hon. member had brought it forward with an honest and excellent intention, and he quite approved of the principle involved, but it appeared to him it sought to define what was indefinable, and, as the amendment clashed with many of the provisions of the principal Act, and might throw the machinery of the Act out of gear, perhaps the hon. member would not think it necessary to press it any further. So long as the magistrates exercised their discretion in a fair and judicial spirit, he he saw no reason why the Act should not work well.

Mr. RANDELL said that having to a certain extent accomplished his object, he would withdraw the clause.

Clause, by leave, withdrawn.

Mr. BURT, without notice, moved a new clause prohibiting the employment in public houses of young persons under the age of sixteen.

The motion was negatived, on the voices, without discussion.

Mr. BROWN asked the Attorney General if he would be good enough to say whether a widow who had held a license for a couple of years past, for premises previously held by her husband, but who was desirous of removing to fresh premises of her own, could obtain a license for this new house, or whether a widow was debarred from obtaining a fresh license in respect of any premises other than those for which her husband at his death had held a license?

The ATTORNEY GENERAL (Hon. A. P. Hensman) said of course it was always convenient to have notice of questions involving a legal point like this, but as the hon. member had asked him for his opinion he would give it. If a widow applied for a license—that was to say, the widow of a publican who died while holding a license—he should say that she could and ought, if not otherwise incapacitated, to have a license granted to her.

Mr. BROWN: For a new house?

The ATTORNEY GENERAL (Hon. A. P. Hensman): For a new house.

Schedule agreed to.

Preamble and title agreed to.

Bill reported.

DEEDS OF GRANT BILL.

On the order of the day for the further consideration of this bill in committee, and the Speaker having left the Chair, the new clauses (Nos. 4 and 5), moved by the Commissioner of Crown Lands on August 13, were withdrawn.

Preamble and title agreed to.

Bill reported.

The House adjourned at half-past ten o'clock, p.m.

LEGISLATIVE COUNCIL,

Wednesday, 27th August, 1884.

Reserved Lands on the Eastern Railway—Intercolonial Quarantine Conference—Post Office Savings Bank, Rates of Interest—Medical Officer for Gascoyne District—Message (No. 25): Further correspondence with Mr. Anthony Hordern re Land Grant Railway—Message (No. 26): Assenting to Bills—Message (No. 27): Replying to Addresses—Message (No. 28): Annexation of New Guinea and Draft Bill Federal Council—Message (No. 29): Replying to Addresses—Cattle Trespass Act, 1882, Amendment Bill: second reading—Adjournment.

The SPEAKER took the Chair at seven o'clock, p.m.

Prayers.

RESERVED LANDS ON EASTERN RAILWAY.

Mr. S. H. PARKER, in accordance with notice, asked the Commissioner of Crown Lands whether the Government proposed to throw the lands on either side of the Eastern Railway open for sale: and, if so, when? It might be in the recollection of hon. members that a strip of land on each side of the line was reserved from sale—he thought, at the suggestion of that House—because it was considered advisable not to alienate any of this land until the railway was opened, so that the Government might get a fair price for it, in accordance with the enhanced value which land assumed when railways passed through or near it. Now that the line was opened and in working order, it appeared to him—and he trusted to find the Government in accord with him—that there could be no