heavily upon us. I have heard it said that the Government is likely to prove incorrect as to their estimate on the cost of this work. It has been stated that the cost will be £5,000,000, but we have the facts put before us by the Engineer-in-Chief, and I cannot see how we are justified in assuming they are wrong. The cost of the pipes and the laying of them cannot involve an enormous expense, and the cost of the dams ought to be easily calculated by men who have had experience in such matters. I believe the harbour works will show that the Engineer-in-Chief's estimate was outside the mark rather than inside. The cost of the first mole did not come up to the estimate by a considerable amount, and, therefore, I do not think it is right to assume that Mr. O'Connor's figures are incorrect in this instance. I can only say that I shall support this scheme, and I trust it will bring that prosperity we all hope it will. Considering the population of the goldfields, and the enormous amount of capital expended, I do not think it reasonable to suppose that those people are not satisfied with their investments or are not sure that they are safe. If private individuals are prepared to risk so much, surely the colony can risk a little.

THE HON. D. K. CONGDON: I believe it is almost impossible to complete this discussion to-night, and, in these circumstances, I propose that the debate be now adjourned until Thursday next.

Motion put and passed.

Debate adjourned accordingly.

CONSTITUTION ACT AMENDMENT BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

ADJOURNMENT.

The House at 10·10, p.m. adjourned until Wednesday, 26th August, 1896, at 4·30 o'clock, p.m.

Legislative Assembly,

Thursday, 20th August, 1896.

Question: Quarantine Accommodation at Albany—Companies Act Amendment Bill: further considered in committee—Fencing Bill: second reading—W.A. Turf Club Act Repeal (private) Bill: first reading—Constitution Act Amendment Bill: third reading—Adoption of Children Bill: Legislative Council's amendments; in committee—Excess Bill: second reading; in committee—Adjournment.

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

PRAYERS.

QUESTION—QUARANTINE ACCOMMODATION AT ALBANY.

MR. HASSELL, in accordance with notice, asked the Director of Public Works:—1. The number of rooms at the Quarantine Station, Albany, in the old and new buildings, exclusive of caretaker's quarters. 2. The height and size of each room.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) replied: The number and size of rooms are as follows:—In the new building: 2 dormitories, each 25ft. x 22ft. x 11ft. high; 4 dormitories, each 12ft. x 10ft. x 11ft. high; 2 bath rooms, each 7ft. 6in. x 9ft. x 9ft. high; 2 bath rooms, each 7ft. 6in. x 8ft. x 9ft. high; 2 anterooms, each 7ft. 6in. x 21ft. x 9ft. high; 2 vestibules, each 7ft. 6in. x 13ft. x 9ft. high. In the old building: 2 dormitories, each 14ft. x 16ft. x 12ft. 6in. high; 1 dormitory, 16ft. x 10ft. x 10ft. high; 1 bath room, 5ft. x 10ft. x 10ft. high; 1 vestibule, 6ft. x 14ft. x 12ft. 6in. high; 1 dining room, 18ft. x 10ft. x 10ft. high; 1 kitchen, 16ft. x 12ft. x 10ft. high. The nine dormitories will accommodate a minimum number of 36 beds. The rooms in the old hospital buildings are not included in the foregoing. The further additions about to be undertaken will provide an additional 30 beds and contingent accommodation.

COMPANIES ACT AMENDMENT BILL.

IN COMMITTEE.

Consideration in committee was resumed.

Preamble and title—agreed to.

Bill reported, without amendment.
Report adopted.

FENCING BILL.

SECOND READING.

MR. LEFROY, in moving the second reading, said: I am not going to ask hon. members to postpone the second reading of this Bill; for although several Orders of the Day have been postponed, I am pleased to say that, at any rate, I am prepared to go on with this measure. For many years past it seems to have been the wish of certain members of Parliament that we should have a special Act in this colony dealing with fencing, and for some years past attempts have been made to pass a Bill through this House dealing with the question. In all the other colonies a special Act deals with fencing, and I think it would be as well for us to have a special enactment here dealing with the subject. The present Bill is not altogether the outcome of the labours of the Commission that was appointed at the close of last session to inquire into the fencing laws, as this Bill seems to be the concentrated wisdom of years of experience and consideration. In preparing this Bill, we have looked through the various Bills that have come before this House dealing with fencing, and which, for one reason or another, have been withdrawn; and we have taken what we consider to be the best provisions in those Bills, and reproduced them in the Bill now before the House. We have at present only two enactments dealing with the fencing of land; the first being a very old Act of William IV., passed in the early days of the colony, and the other being certain clauses in the Trespass Act relating to fencing. The present Bill may therefore be looked upon, to some extent, as a consolidation of previous enactments dealing with fencing, and it also contains a considerable quantity of new matter. In the interpretation clause it will be seen that the meaning of the word "land," where it occurs in this Bill, is defined as intended to mean freehold land, or land held from the Crown under conditional purchase or homestead lease. The Bill also deals with the question of Crown or leasehold land, and the word "Crown" is defined as including also the land of the two land-grant railway companies in this colony. [MR. ILLINGWORTH: Why?] The reason why these companies are included in the definition of the word "Crown" is that the greater part of the land held by them is leased to tenants under the same terms and conditions as other leasehold lands of the Crown are leased to pastoralists and others in the colony. It was therefore considered, in preparing this Bill, that it would be only fair that the individuals who have leased lands from these companies, and upon whom the onus of fencing falls, should, at any rate, be placed in the same position as ordinary leaseholders under the Crown. It will be for this House to consider whether that is fair or not, and I hope this question will be thoroughly examined on its merits. There is nothing retrospective in this Bill, and I may say the retrospective provision has seemed to be the *bête noir* in some of the fencing Bills previously brought before this House. Clause 4 enacts that where land is fenced after the passing of this Act, adjoining owners shall be obliged to pay one-half the cost of the fencing if called upon to do so. It will be seen, therefore, that there is nothing retrospective in this Bill, which merely enacts that where persons have freehold land and fence it after the passing of this Bill, they can call upon any adjoining owner to pay half the cost of such fencing, whether such owner uses the fence or not. At present an adjoining owner is not obliged to pay one-half the cost of a dividing fence, unless he makes uses of it. It is considered this provision will encourage fencing, and perhaps cause some owners in the colony, who may not have improved their land, to do so. I think that is one of the objects of this clause. Clause 5 also provides that where the owner or occupier fences land after the passing of this Act, and such land adjoins unalienated land, in the event of the unalienated land being afterwards alienated or held from the Crown, then the party purchasing or holding such land shall be obliged to pay one-half the cost of the dividing fence. Clause 6 deals with a question which is quite new, and I think, if this clause is fairly considered, hon. members who may be interested in the subject will—or I hope they will—come to the conclusion

that the provisions therein contained are wise. I would like to point out that, under the present fencing law—I mean the clause dealing with fencing in the Trespass Act—if a person owning or holding leasehold land fences such land with a sheep-proof fence only, and such fence is not sufficient to resist both cattle and sheep, and if another party comes and fences land alongside, he is not to be compelled to pay for one-half the fencing which the first party may have put up, because it will not resist both great and small stock. I think the provision in this Bill is an improvement on that, because it provides that where a person fences with a sheep-proof fence only in a country where a more sufficient fence is not required, and an adjoining owner or occupier also fences with a sheep-proof fence, he shall be obliged to pay one-half the value of such dividing fence when availed of. Then, again, the clause provides that should the owner of freehold land, or the holder of a pastoral lease, erect a cattle fence, and an adjoining owner avail himself of that fence by also erecting a sheep and cattle proof fence, then the last-named occupier shall not be liable, under this Bill, to pay anything towards the cost of the first-mentioned fence until it is also made sheep and cattle proof. It seems only right that a man should not be obliged to pay for a fence unless he can make use of it; and it seems a wise and fair provision to require that, where a person erects a fence, the adjoining owner shall not be compelled to pay for that fence unless it is really of some service to him. When the Bill goes into committee, as I have no doubt it will, I shall be happy to explain any of its provisions that may not seem plain to hon. members. Clause 7 provides that a person holding leasehold land shall not be obliged to pay for more fencing than he would be required to put up were the freehold land not in existence. I may be better able to explain what this clause means by asking hon. members to imagine that the floor of this House is a block of leasehold land, and that the table, which occupies a comparatively small space within it, is a block of freehold land—though I won't call the hon. member for Nannine a corner post of the block—[THE ATTORNEY GENERAL: He is not sheep-proof]—and supposing the floor to represent a leasehold of 20,000 or 30,000 acres, and the table to represent a freehold of 300 or 500 acres, this illustration will show how unfair it would be that a person who holds the large leasehold area, which may be only poor country, should yet be obliged to pay for all the fencing that the owner of the small freehold within the larger area might put up for his own convenience. Therefore this Bill provides that the holder of a leasehold in such a situation shall be obliged to pay only for the amount of fencing he would be required to erect were the freehold not there; that is to say, he would be required to pay for only that portion of fencing, and not for the whole of the boundary fencing which the freeholder might erect. Clause 8 refers to the fencing of land along a road, and as there is no provision in any existing enactment with regard to this question, it seems only fair that something should be done. The Bill provides that any person using fencing that may have been erected on one side of a road, by availing himself of it in connection with land on the other side of the road, shall be liable to pay interest on one-half the cost of such fencing, and contribute annually to the cost of repair. For example, a person may own a fence for miles along one side of a road, and an adjoining owner on the other side of the road may come in, and, by erecting gates, if he can obtain the permission of the road board to do so, may make a beneficial use of his neighbour's fencing. I do not think that, under our present fencing laws, the owner of a fence alongside a road can call upon a neighbour who makes a beneficial use of that fence to pay one-half the interest on the cost of its construction, and contribute annually towards its repair. The Bill provides that an adjoining occupier who makes use of a fence in such circumstances shall pay at the rate of 10 per cent. interest on the cost of the fencing, besides contributing to the cost of keeping the fence in repair. It must be remembered that this amount is only intended to defray the interest on the cost of fencing, and the cost of keeping it in repair. There are other clauses dealing with hedges, but there is not much necessity in this colony for making provision with reference to hedges, although

it may be considered well that some provision should be made for the future, as well as the present, with regard to hedges. Clause 13, it will be noticed, deals with the apportionment of the cost of fencing between landlord and tenant. Hon. members will see that the Bill makes a just apportionment as between them. I think it will bear scrutiny, and that it will be found there is nothing unjust or unreasonable in that apportionment. Clause 20 is an important clause, as it deals with the points upon which justices may give decisions. One of those points, which might arise at different times, is whether the fence is being availed of or not by the party against whom the claim is made. It will be for a justice to decide whether a fence is being availed of, and to what extent. It will be found that this clause deals also with the erection of a fence and the making of repairs, and as to whether proper diligence has been used in erecting a fence when once the work has been commenced; further, it relates to the sufficiency of a fence. Clause 21 provides that, in the case of country land, a person cannot claim for more than a 6-wire fence, with posts 9ft. apart, and in the case of suburban land a claim cannot be made for more than an ordinary paling fence—that is, a fence consisting of sawn timber. This latter provision would prevent a rich gentleman from the goldfields, who has erected a marble wall around his property, from claiming from a poor farmer (who may have a block alongside) more than half the value of an ordinary paling fence. The Bill also deals with cases of obstruction to persons when erecting fences, and also covers the case where two persons may have their boundaries on a river. The remaining clauses of the Bill deal chiefly with the administration of justice and the settlement of disputes. This Bill has been framed on the lines of other Bills that are in force elsewhere, and I think myself it is an improvement on some of the fencing Acts we have received from other colonies. We are situated here differently from what they are in the other colonies, in many ways, and the Commission, therefore, when drafting this Bill, have endeavoured to eliminate anything that might cause hardship to any individual in the community. While hon. members admit the necessity for this Bill, they will at the same time, I think, agree that there is nothing harsh in its provisions. I submit the Bill for the consideration of hon. members, and hope they will agree to the second reading, leaving the thorough discussion of its provisions until we get into committee. I now beg to move the second reading of the Bill.

MR. ILLINGWORTH: This Bill, I take it, is consequent on the Bill that was before this House last session, or the session before. The chief objection taken on that occasion, by myself at least, was to the principle of allowing retrospective claims, and to the principle of compulsory payments by certain persons. I regret to see, in Clause 4, the principle which I objected to still exists. It is a principle that is calculated to work hardship on that class of persons which we desire to see on the land. We all know that when a selector goes upon the land, he naturally looks for the best piece of land available, and it often happens that that best piece of land is equally prized by the holder of the run. Under the conditions of the Land Act, the selector has three years in which to fence his land; but under Clause 4 of this Bill, if his land adjoins any fence put up by the squatter, or adjoins the land of another selector who may have a longing eye on this particular piece of land, he can be compelled, within three months, to pay half the cost of the fence which then exists, although, if it were Government land, he would not have to pay for the fencing before the expiration of three years. When men of this class go upon the land, they usually are pretty short of of cash, and require every shilling they can rake together to make a start. This clause, therefore, would completely crush out the ordinary selector who is short of funds. [MR. LEFROY: No.] The hon. member will perhaps allow me to say "Yes," notwithstanding his "No." We have had some experiences of this kind elsewhere. It is not simply a thing of to-day. I can assure hon. members that clauses of this kind are calculated to very seriously affect the small selector. We are all anxious that this class of men should receive every possible encouragement to settle on the land. We are prepared to give each of them 160 acres free, and are prepared, under the fencing clause of the Land Act, to wait for three

years before we compel them to fence. There may be two or three of the frontages of a selector's block fenced, and this fencing may have been done by persons in better circumstances; but, under this Clause 4, the new-comer is called upon to pay within three months half of the cost of the existing fence, although he may not require to use it, and may have no intention of using it. In these circumstances, a selector might be driven off the land by the compulsory effects of this clause. Then, in Clause 2, we have a rather curious definition of Crown lands, for it says the Midland Railway Company and the West Australian Land Company shall be taken as coming within the interpretation of the word "Crown." This Bill provides that, when a fence is used, the person so using it shall be called upon to pay his share of the cost of erecting it; but by what process of reasoning are the Midland Railway Company, or the West Australian Land Company, who may use a fence erected by a settler, to be not amenable to the payment of half the cost of the fence?

THE PREMIER: If they use it they must pay for it.

MR. ILLINGWORTH: According to this clause, even if they use the fence, they will not be called upon to pay half the cost, for they are especially excluded from liability by the interpretation of the word "Crown" in Clause 2. There is no reason, as I understand it, why the Crown should not pay half the cost of a fence that the Government are using. The hon. member for the Moore says this Bill will not be retrospective in its operation. There are two long, complicated Clauses, 1 and 2, bearing on this point, and in Clause 6 we have the words "either before or after the passing of this Act."

MR. LEFROY: A person is not compelled to pay for a fence unless he makes use of it. That is the law now.

MR. ILLINGWORTH: If you make use of a fence, if it is a limitation that the fence shall be used, then of course the hon. member is right. The principal person I want to protect is the person who, under difficult circumstances, is trying to make a home for himself, and who is liable to be thrust out of his holding by his wealthier neighbour. I am glad to notice that this Bill is a great improvement upon the Bill that was placed before this House some time ago; and I think that, had the Bill of which I have made mention been passed, great difficulties would have arisen and much injury to small selectors would have accrued. Most of the objectionable features of that Bill have been eliminated from this Bill; and, so far, I think the measure is a credit to the committee who have prepared it. To my mind, if we are to have a fencing Act at all—and I have doubts about its necessity—I do not see that there can be any great objection to this Bill, which may be altered in some respects in committee.

MR. THROSSELL: The hon. member for Nannine has brought forward several objections to clauses in this Bill. As I understand this Bill, it was intended to omit the retrospective clauses; but in Clause 5 the Bill seems to be retrospective in its character, for we find that the owner or occupier of a large property which is already fenced, if his fence adjoins Government land, may call upon the small selector to pay one-half of the cost of the fence that the selector uses. On the other hand, if a small man has selected Government land alongside the boundary of a large landowner, he has not the privilege, under this clause, of calling upon the large owner to pay for half the cost of a fence. I have no objection to the retrospective clauses, for I think the soul will be taken out of the Bill if that principle is not applied. If a man benefits by a fence belonging to an adjoining owner, he should be willing to pay his share of its cost. We find, in Clause 6, the retrospective principle applied in its entirety as regards leases, and not as regards freehold. Clause 5, as stated by the member for Nannine, would make the conditions harder for the small holder than the Government would make them under the law as regards fences which are in existence. The homestead blocker or the special occupation selector is under compulsory conditions to make improvements within a given time, having a certain time to fence; but, under Clause 5 of this Bill, the man who takes up land adjoining land which is already fenced is placed under much harder conditions than those in the land laws as regards fencing. If the intention of the clause be as I say, it ought to be amended, and no doubt we shall have an opportunity

of amending it when in committee. We have been pegging away at Fencing Bills since 1893. I think it was in 1893 that I secured the passing of a motion in favour of the drafting of a Fencing Bill, and in 1894 I ventured to introduce a Fencing Bill which I considered suitable for the colony. If we had adopted that Bill, we should have had an Act suitable to the circumstances of the colony—more suitable even than the Bill now before the House. I shall support this Bill, but I think several of the clauses will have to undergo amendment—Clauses 5 and 6 especially, because their influence will be against the small holder of land. I hope that, before the debate is ended, some hon. member will suggest the adjournment of the second reading for a fortnight, in order that the agricultural societies and other bodies in the country may have an opportunity of studying the Bill, and letting us know their wishes as regards its provisions and the amendments that are necessary.

MR. TRAYLEN: It is scarcely likely that this House will reject altogether the idea of the Fencing Bill; but I do hope this Bill will undergo some considerable modification before it is passed. It is, I think, in its present form, calculated to work very great hardships in the community. Clause 4, to begin with, provides that either of two adjoining holders of land may determine to erect a fence, and shall have power to call upon the other holder to pay half the cost of it. What is more, he may determine for one of three kinds of fences, which are defined in Clause 2: (*a*) is described as being a fence capable of resisting the trespass of great cattle and sheep; (*b*) as a fence capable of resisting the trespass of great cattle only; and (*c*) as a fence capable of resisting the trespass of sheep only. It seems to me that, to give either of these owners the absolute power—because that is what this clause really comes to—to say he will fence and erect the most expensive of these three kinds of fences, whether the fence is needed for the benefit of his neighbour or not, is to place him in a position as regards his neighbour that he ought not to occupy. The clause is altogether of too arbitrary a character, although there is a reference in it as to what a justice may do in deciding between the parties. As a justice of the peace, I do not think I should consider that I had any right to interfere, if the neighbour declined to be a party to the erection of any of these three fences. Clause 20, at any rate, will have to be amended, and it will be advantageous to amend Clause 4 to enable a neighbour who objects to paying half the cost of a fence to refer the matter to a justice of the peace forthwith for decision, as to whether there should be a fence of the character proposed, or whether indeed there should be a fence at all. Someone has been good enough to say this compulsory payment of half the cost of the fence, whether the fence be used or not, is the way to encourage fencing among the holders of land. Now, the object of fencing is to protect a man's property, and self-interest in all cases will lead a landowner to fence, if he has the means for doing so; but we have to deal with the case of the man who has no means, and I am sure that is the condition of most of the people who will be affected by this Bill. I fail to see how, by this Bill, you will encourage fencing by compelling the small landholder to use his little store of cash in paying half the cost of his neighbour's fence, especially if he is unable to make use of that fence for his own purposes. Again, as to Clause 5, it appears to me to be very unequal in its application, and I am not quite sure the member for Northam made his case as strong as he might have done against this clause. Assume that a pastoral lessee has 3,000 acres of land which he has fenced; that it is alongside land which is to-day unalienated from the Crown; and to-morrow a selector takes up a portion of that unalienated land, and finds that he has forthwith to pay half the cost of the large holder's fence, and cannot by any means get out of that payment.

THE COMMISSIONER OF CROWN LANDS: He has to do that now.

MR. TRAYLEN: I am assuming he is not fencing the whole of the property he takes up now. Whether he fences his own land or not, he has to pay one half of the cost of his neighbour's fence. Now let us put the boot on the other leg; let us assume that the small holder of land is there first, and has erected fences, and that the pastoralist comes along and taken up his 3,000 acres; then the small man cannot get a penny on account of

the fences, until the pastoralist has fenced the whole of his run. In regard to liability for payment of the money, the Bill is very stringent. There is no consideration whatever as to whether a man is poor and devoid of cash; whether he is willing to pay and is unable to do so. The Bill says that proceedings may be taken forthwith, and that in due course of law the money can be recovered by the sale of the defendant's goods and chattels. Let me apply these conditions to a case I heard of the other day. An unhappy farmer lost about 70 acres of his crop through the ravages of a grub; and would it not be manifestly unfair for his neighbour to come upon him just now, when he must be a great sufferer and must be short of cash, and say: "I am going to fence; you shall pay your share of the cost; and, if you refuse, I will proceed against you and recover on your goods." There is no provision in the Bill covering this man's case; and his goods may be sold to pay the debt for the fence, and, if sufficient is not realised by that means, the land becomes liable, and at the expiration of four years may be seized. Clause 7 is incomprehensible to me. I see in Clause 8 a provision for the payment of 10 per cent. interest on cost, and surely this is a principle that might have been introduced to meet a case of hardship such as I have described. If a man is really unable to pay, are we going to subject him to the persecution of a neighbour and allow his goods and chattels to be sold, when we, in another case, say that 10 per cent. on the total cost is a fair thing to charge? I do not think I need make any remarks on Clause 11, which allows three months to elapse before the parties are obliged to repair a fence; for if repairs are needed in a fence, I should think they ought to be executed forthwith. In Clause 20 I think there should be something inserted which would enable a man in the first instance, when he receives notice of a claim for a fence, to take his case before a magistrate; and sufficient power should be given to the magistrate to nullify the arbitrary powers conferred by Clause 4 upon the landowner who is about to fence. I am not prepared to go the length of saying we ought not to have a Fencing Bill, but I do say this Bill should be greatly modified.

THE ATTORNEY GENERAL (Hon. S. Burt): I do not wish to say anything, for my part, to disparage the efforts put forth by the Commission on Fencing to produce another Fencing Bill; but I must say that, on looking through this measure, I came to the conclusion that in legislation of this character our troubles are just commencing. I do not think we shall ever get a Fencing Bill through this House. This one has some curious provisions in it. For instance in Clause 2 we find the word "Crown," which implies Her Majesty, and embraces Great Britain and Ireland, made to include the Midland Railway Company and the West Australian Land Corporation. I do not think we should like to pass this Bill with such an interpretation of the word "Crown." There is a great difficulty in preparing clauses on this subject; and I point to this matter of the interpretation of the word "Crown," to show the difficulties that are in the way. It shows that the Commission were at a loss to devise some better method of treating the subject, when they were driven to include the names of these two companies in the interpretation of the word "Crown." That shows the difficulty they have found themselves in. Even in the interpretation of the word "fence," in the construction of the Act, it is set out that the word "fence" shall take a meaning quite apart from the context. "Fence" is set out in three subdivisions, to mean a fence which (*a*) is ordinarily capable of resisting the trespass of great cattle and sheep; (*b*) is ordinarily capable of resisting the trespass of great cattle; (c) is ordinarily capable of resisting the trespass of sheep. It seems to me that in the body of the Bill the word "fence" is necessarily used, from time to time, with only a limited meaning. For instance, in Clause 6 it becomes a little involved, as "fence" is interpreted to mean a certain thing; and consequently we find the word "fence" followed by its definition three or four times; so that you have to specify, in the context of the Bill, what particular fence you mean. "Land" is interpreted to mean all lands except land held under lease or license for pastoral purposes; but in Clause 4 it is provided that the owner or occupier of any land—that is land apart from a pastoral lease—can be called upon by an adjoining owner to

join in the expense of erecting a dividing fence. Then in Clause 6 we have the same words, "the owner or occupier of any land" (which includes all land) "or pastoral lease or license from the Crown," (which includes, therefore, the exception in Clause 4), may be called on by an adjoining owner to pay half the then value of a fence erected, and which is availed of by him. It seems to me that Clause 6 goes further than Clause 4, the latter limiting the request to fence until after the passing of the Act, while Clause 6 says the adjoining owner may be called on to pay for a fence erected before or after the passing of the Act. I can only say I should be happy in assisting to make the Bill workable, but I really do not feel capable of assisting towards that end. It seems to me the difficulty is that we all wish—and especially the country members—to go too much into detail in dealing with the Bill. We wish to provide for the case of this, that, and the other man, and we wish to include fences capable of resisting great cattle, and fences capable of resisting sheep, besides fences capable of resisting both, while we also try to deal with the case of fencing erected by a man who lives alongside a large pastoral lease. We want to provide for that case, and also for that of the selector who comes alongside the man who has already fenced, the selector wishing to use that fence; besides the case of the man who ultimately will come alongside the selector. We must make the Bill far more general, as we cannot meet so many individual cases. If we can evolve anything like a workable Bill, I should be happy to assist members who are interesting themselves in the matter. I am sorry a difference of opinion exists in the case of the hon. member for Northam, who has been the leader of the movement.

THE COMMISSIONER OF CROWN LANDS: He does not understand it.

THE ATTORNEY GENERAL (Hon. S. Burt): That is my difficulty; I cannot understand it. The hon. member for Nannine ought to see that there is as much justice in making the man who comes and avails himself of my fence pay for that fence, whether I erected that fence yesterday (before the passing of the Act) or erect it after the passing of the Act. If we pass this Bill without a retrospective clause, a man who has erected and paid for a fence will find his neighbour may come and take advantage of it, without paying a penny towards the cost; and that would not be just. I shall be glad to assist, and I hope we may be able to get a workable Bill through the House; but I very much fear it.

THE COMMISSIONER OF CROWN LANDS (Hon. A. R. Richardson): I do not wish to say much on this subject at this stage; but I think a good deal of the criticism directed at this Bill is, perhaps, due to the fact that hon. members have not had time to look into the clauses. If they had, they would find many of their criticisms were uncalled for, as what they feared was enacted will not be enacted, while other things are provided for which they feared were not provided for. As to what the Attorney General has said regarding Clause 6, it was necessary to reproduce certain clauses of the old Act because the old Act is repealed by this one; and when a person used a fence it was necessary to enact that he had to pay for it. That is in the Act at present, and Clause 6 reproduces that particular clause. I think the House is somewhat responsible for a certain number of the provisions being admitted into this Bill, because it was found difficult, rightly or wrongly, to get the Bill through without them. Moreover, the House is responsible for the exclusion of the retrospective clause. It is somewhat of an absurdity that that clause has been expunged, because it will rather go against the Bill. Then as to what the Attorney General said regarding the interpretation of the word "fence;" the members of the Commission thought it desirable to put it in as it appeared in the Bill, so that you cannot compel a man to pay for a sheep-proof fence when he has only cattle and does not want to use a sheep fence. It was manifestly a hardship for a man running only cattle to have to pay for the more expensive class of fence; and so we defined the meaning of the word fence as it appears in the subdivisions *(a)*, *(b)*, and *(c)*; but any one of them is to constitute a fence. Under the old Act, a fence was not legally a fence until it was capable of resisting both great and small stock. If it did not resist sheep, it was not a fence; or if it

did not resist cattle, it was not a fence; but now, if a man wishes to put up a sheep fence, and his neighbour does not wish to run sheep, the latter will only have to pay for a fence that will resist great cattle—perhaps a three-wire fence. If, however, he runs sheep, he has to pay half the cost of the sheep fence. With reference to the plea of the hon. member for Nannine, as it were on behalf of the small selector, it is beside the mark entirely; because, I maintain, one of the first things a selector does, if he is going to do anything on the land, is to fence. Practical experience shows it is the small owner who fences. He has only a small piece of land, and must fence it; as, until he fences it, he gets absolutely no benefit from the land.

MR. ILLINGWORTH: He does not fence the whole of it.

THE COMMISSIONER OF CROWN LANDS (Hon. A. R. Richardson): Generally he does. The hon. member for Northam well knows it is the small men who are crying out for a Fencing Bill. Some criticism has been directed against what is called the absurdity of including the Midland Railway Company and the West Australian Land Corporation with the Crown; but, notwithstanding that we have a prejudice against these concerns, it would be unjust if they were not included; for we must remember they obtained their lands under a special contract with the Government to do certain things, for which they were to get so many thousand acres of land. They never anticipated it would be clogged with expensive conditions as to paying for fencing; and they would have good reason for exclaiming against the Government for taking advantage of Parliamentary powers to inflict on them that which they never anticipated, when making the contract. As soon as ever they alienate any of that land, it is liable to the provisions of this Bill. They also lease a large portion of their land, and it would not inflict so much hardship on them as on the lessees; and that point must be taken into careful consideration. We thought this was the only reasonable and practical way of dealing with the difficulty. It is very easy to make a little fun of that, but the only practical way was to include them with the Crown.

MR. ILLINGWORTH: I do not think the Crown will be flattered.

THE COMMISSIONER OF CROWN LANDS (Hon. A. R. Richardson): I do not think it will hurt the Crown very much, and not to include the companies would hurt them very seriously. The hon. member for the Greenough said it was a great hardship for small selectors to be compelled to pay for fencing alongside them; but the hon. member should know that, at present, if a selector takes any land out of a pastoral lessee's run that includes any portion of fencing, whether it is in use or not, under Clause 108 of the Land Regulations he has to pay for the fences as existing improvements. It was considered a natural principle of justice that, if he took a pastoral lessee's improvements, he should pay for them. In committee, when we come to each particular clause, I think sufficient explanation will be given to meet all practical cases; but I would say this, in conclusion, that if any hon. member thinks it is possible to get a Fencing Bill, as the Attorney General remarks, that will meet every individual case and avoid every little case of hardship, I think it is impossible in a Fencing Bill, or in any other legislative enactment, to do it. I do not suppose the House passes any legislative enactment that does not inflict hardship on some individual. If we are to look for Utopian legislation that shall not touch anyone at all injuriously, I think we must give up passing many good measures. Surely it is worth while overlooking a few cases of individual hardship, when a Bill is for the benefit and progress of the colony. I maintain that in Western Australia, unless the land were fenced, the owner would be far better without it.

MR. TRAYLEN: The hon. member who has just spoken mistakes entirely what I said. I did not refer in the least degree to the selector who takes a piece of a pastoral lease, but I referred to one who takes up land alongside a pastoral lease—which is a totally different thing.

MR. CLARKSON: I have not seen the Bill before, but from a glance through it I do not see much to find fault with. Land in this colony is perfectly worthless unless fenced, and the clause which the hon. member for Nannine took so much exception to is really in the interests of the small selector. He is not called upon to pay for half the fence until he adjoins

it and gets some benefit from using it. The small holder would not take up land, unless he had the intention of fencing as soon as possible. Some of these clauses appear to be rather contradictory. In the definition of "land" we are told it shall not include lands held under lease or license from the Crown for pastoral purposes; but, in Clause 6, it is provided that "if the owner or occupier of any land or pastoral lease or license from the Crown shall, either before or after the passing of this Act," and so on. If a man uses a portion of a fence, he should pay his fair share of the cost of erecting the fence. I maintain that land is not worth holding unless it is fenced, and anything that will induce people to fence their holdings must be beneficial, and an advantage to the poor man, who would not take up land unless with the object of improving it.

MR. LEFROY (in reply): I must thank the House for the way this Bill has been touched upon; and I may thank the hon. member for Nannine, whose special duty it is to criticise it, for the kindly treatment he extended towards it. I do not think he is altogether right in referring to Clause 4 as likely to be a hardship. I think he only picked out Clause 4 because he could not find any fault elsewhere, and so thought he would find an imaginary grievance here.

MR. ILLINGWORTH: Confine yourself to what I said, not to what I think.

MR. LEFROY: For my part, I think this Bill is entirely in the interests of the small holders, and in favour of the selector right through; and I doubt if there is anything in it likely to be injurious to the selector. Clause 4 simply provides that if a man fences a piece of land after the passing of this Act, the person alongside him, if he also owns freehold land, must pay one-half the cost of fencing. No selector would take up land without fencing; indeed all the regulations compel him to fence. Under this clause he is supposed to start the fence within three months; and if he does not use proper diligence in completing such fence, it shall be lawful for the person who owns land alongside to complete the fence himself, and then the selector can be called upon to pay half the cost, and that does not seem to be very hard. The justices have large powers in dealing with this question; and if there is anything likely to cause dispute, when brought before the justices, I think they will certainly see that fair play is shown to both sides. With regard to the interpretation of the word "Crown," on which the Attorney General dwelt somewhat, I may say that when the last Fencing Bill was before this House we had a promise from the Government that they would introduce something of the kind in a new Bill. It is not, I assure hon. members, for the sake of the two great land companies that this interpretation has been included in the Bill, but in the interests of those persons who are tenants of the land companies. It must be remembered that the people who hold land between Geraldton and Albany are mostly tenants of these companies, and the Bill is to protect the tenants and is in their interest. I am sorry if the interpretation in the Bill offends the susceptibilities of the Hon. the Attorney General by mixing up these companies with the Crown; and if the object can be attained in any other way, I hope the interpretation will be altered, so as to prevent any unpleasantness of that kind. I hope hon. members will look into the Bill carefully, so that we may be able to pass something, at any rate, that will be satisfactory to the country.

MR. VENN: I think, in common with other members, that this Bill has not been before us at all during the last session—I question whether half a dozen members of the House have had an opportunity of reading it before—and I hope the mover of the measure will put off the committee stage to a very late date of the session, so that possibly the consideration of the Bill may come in some other session. I agree very much with what the Attorney General has said, as I think we may involve ourselves in a good deal of complication. The law, as it stands, is perhaps not the best, but, if it can be enforced, we are without further complications. We may not always have the Commissioner of Crown Lands to come to our aid and tell us what the Commission meant, or what anyone else meant. I am certainly not less interested in this question than other members of the House, and I know that when you come to deal with a Fencing Bill, you are touching a very ticklish matter indeed. Without

the retrospective clause, it is like a dummy without life, and, without that provision, I think the whole question had better be left alone.

Question put and passed.

Bill read a second time.

On the motion of MR. LEFROY, the Committee stage was fixed for that day fortnight.

W.A. TURF CLUB ACT REPEAL (PRIVATE) BILL.

Received from the Legislative Council (with report of Select Committee on the Bill), and, on the motion of Mr. Wood, read a first time.

CONSTITUTION ACT AMENDMENT BILL.

THIRD READING.

THE PREMIER (Hon. Sir J. Forrest): I beg to move the third reading of the Bill.

THE SPEAKER: I have counted the House, and find that there is an absolute majority of the House present. I ought to mention that, when the second reading of this Bill was passed, I did not count the number present. I have inspected the book showing the attendance of members, and I find there were twenty-four present, so I may say that I take it for granted there was an absolute majority of the House present when the second reading took place.

Question put and passed.

Bill read a third time, and transmitted to the Legislative Council.

ADOPTION OF CHILDREN BILL.

LEGISLATIVE COUNCIL'S AMENDMENTS—IN COMMITTEE.

MR. RANDELL (in the absence of MR. Moss, in charge of the Bill) moved that the amendments made by the Legislative Council be agreed to. He said the amendments were assented to by the hon. member for North Fremantle, who had introduced the Bill.

The amendments were as follow:—No. 1.—On page 2, Clause 3, Sub-clause (4), line 2, strike out "forty" and insert "thirty" in lieu. No. 2.—On page 2, Clause 4, Sub-clause (4), line 2, strike out "forty" and insert "thirty" in lieu.

Question put and passed.

Resolution reported, and report adopted.

Ordered, that a message be sent to the Legislative Council, informing them that the Assembly had agreed to the amendments made by the Council in the Bill.

EXCESS BILL (FINANCIAL YEAR 1894-5).

SECOND READING.

THE PREMIER (Hon. Sir J. Forrest): In rising to move the second reading of this Bill, I should like to say, what is no doubt pretty well known to hon. members, that this Excess Bill shows the complete excesses for the year ending 30th June, 1895. It is more than a year ago, therefore, that the expenditure which we are dealing with in this Bill took place. It may be thought by some members that, to consider an Excess Bill more than a year after the expenditure has been made, is not altogether satisfactory; and I should like to explain to the House that, if members will look more closely into the matter and investigate it, the practice wil not appear so objectionable as it does at first sight. I may inform the House that it would be just as easy for the Treasurer to bring down an Excess Bill for the year ending 30th June last, during this session of Parliament, as it will be for him to bring it down next year. There is only this difference, that we would not have the complete report we have now, in regard to every item of this Excess Bill, because it would be impossible, I think, for the Auditor General to prepare a report upon every item of the expenditure in the time that would be available to him. The point I wish to make on the present occasion in regard to this Bill is that the Estimates are placed upon the table of the House for the year, and that there is full information in these Estimates as to any excesses that may have taken place during the past year. We are able to follow, up to the present time, a practice which is not followed in the other colonies for a very good reason, and can place in our Estimates the expenditure under every item of each vote for the year prior to the end of the financial year. The Estimates being prepared to the end of the financial year, we are able to place before hon. members, for their information, the actual expenditure on every item in each vote for the previous year, and the vote which we ask you to approve for this, the current year. We not only show you the vote that you ap-

proved of for the same item last year, but we also show you the expenditure that has taken place during last year on that item. Therefore, full information is in the hands of hon. members in regard to the expenditure of every vote that has taken place. It is quite competent for every member of the House to ask any question, when the Estimates are going through this House, upon any expenditure that has taken place during the past year, because he has before him the actual expenditure that took place on that item for the past year. To show hon. members what I mean, take, for instance, the item of excess on page 10, "Incidental Expenses, £4,934 10s. 7d." If you turn to page 41 of the Estimates of last year, you will find that there was a vote of £3,000 and that £7,934 10s. 7d. was expended. The difference between the vote of £3,000 and the amount expended (namely £4,934 10s. 7d.) is the excess that we ask you to approve. As a matter of fact, the hon. member for the Gascoyne asked for a return showing how this excess of £4,934 10s. 7d. had been expended; and a return giving a detailed statement was laid upon the table of the House, giving every item of that expenditure. Take again the item on page 16, "Works and Buildings, item 204;" also "Sundries (incidental expenses) £2,873 10s. 9d." This excess was clearly shown on page 61, item 296, of last year's Estimates, where the vote was shown as £2,000, and the expenditure as £4,873 10s. 9d. A return of this expenditure was also asked for by the hon. member for the Gascoyne, and the detailed statement was laid upon the table of the House. The same explanation applies to every item of these Estimates; so that hon. members will see they come before you in the shape of a Bill for your approval, accompanied by the detailed report of the Auditor General, showing the reasons for every item of these excesses on votes which were before hon. members during the last session of Parliament. Therefore the House is not in any way taken by surprise, at the present moment, in regard to the total of the excess expenditure, or in regard to any item that appears in the Excess Bill. It has been said in this House that it is very awkward or inconvenient that members are unable to call attention to the items of excess expenditure until a year after the expenditure, when the Excess Bill comes down; but I say that it is not the case. When the Estimates are laid on the table, hon. members are in just as good a position to ask questions in regard to the Excess Bill as they are on the present occasion. The only difference is that Ministers would have to ask for time to provide the explanation; whereas at the present time you have the explanation before you, in the Auditor General's report. Hon. members will notice that the total amount of the excess was £96,190 18s. 6d.; but of this there was paid under statutory authority £350 7s. 2d.; so that the amount of excess as shown in this Bill, was £95,840 11s. 4d. I am pleased, however, to inform the House that, although we expended this amount in excess of the vote, we had underdrafts to a larger amount than the excess. The underdrafts amounted to £113,927 5s. 1d. Of this sum there was a sum belonging to special grants of £2,256 4s. 9d.; so that the actual underdrafts, leaving out the special grants, was £111,671 0s. 4d. Hon. members will see that the excess was less than the underdrafts by £15,830 9s. Therefore, although we expended the considerable amount of £95,840 11s. 4d. in excess of the vote, we had underdrafts more than enough to cover the excess. I think hon. members will come to the same conclusion that I have come to, in looking at this matter before bringing it under the notice of the House, that the accounts of the colony are thoroughly well and carefully kept in the greatest detail. I think hon. members will be satisfied that the system of accounts is most complete, and that every information it is possible to ask for, both in regard to excess and underdrafts, is given in this excellent report of the Auditor General to the Colonial Treasurer. I have much pleasure in asking the House to approve of the second reading of this Bill.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Bill passed through committee, without amendment, and reported.

Report adopted.

ADJOURNMENT

The House adjourned at 6·15 o'clock, p.m., until the next Tuesday.