

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 undefinable, 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 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Clause, by leave, withdrawn.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 commit-

tee, 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having left the Chair, the new clauses (Nos. 4 and 5), moved by the Commissioner of Crown Lands on August 13, were withdrawn.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

reason for keeping this land locked up any longer.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) replied that by *Gazette* notice, dated 13th March, 1883, all the Crown Lands within two miles of the Eastern Railway were classified as suburban land under clause 38 of the Land Regulations. It was further notified, at the same time, that when these lands were surveyed they would be sold by auction at an upset price to be fixed by the Governor in Council. Up to the present time he had not had a surveyor available for the work, but he hoped soon to be in a position to undertake it, and to have marked out sufficient allotments to meet any demand.

FEDERAL QUARANTINE CONFERENCE.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, asked the Colonial Secretary whether he could give the House any information respecting the Intercolonial Quarantine Conference about to be held at Sydney; whether he could state by whom this colony was to be represented at the Conference, and could acquaint the House with the nature of the instructions issued, or to be issued, to the gentleman selected for that purpose.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the Conference was to meet on 15th September, at Sydney, and that Dr. Rogers, the Resident Medical Officer at Albany, would represent this colony. A copy of Dr. Rogers' instructions had been laid on the Table of the House.

SIR T. COCKBURN-CAMPBELL: Does the hon. gentleman know whether it is intended to determine at this Conference where the intercolonial quarantine station is to be?

THE COLONIAL SECRETARY (Hon. M. Fraser): The only information the Government are possessed of will be found in the instructions issued to our representative, and which are now on the Table.

POST OFFICE SAVINGS BANK: RATE OF INTEREST ON DEPOSITS.

MR. S. H. PARKER, in accordance notice, moved, "That an humble address be presented to His Excellency the Governor, praying that he will be

"pleased to introduce a bill to amend the 'Post Office Savings' Bank Acts in such manner as to provide that the interest payable to depositors shall be at the rate of £5 per cent. per annum instead of £3 15s." Hon. members were probably aware that this £3 15s. was only payable on deposits amounting to £1 and multiple of pounds—shillings were not counted—and that no interest at all was allowed on deposits paid in after the first of the month until the month next ensuing—no interest was paid on any broken part of a month; also that if a depositor withdrew his money during the currency of a month he only received interest upon it up to the end of the preceding month. It would thus be seen that, in addition to paying a low rate of interest, the Government gained considerable advantages, so that in reality the interest which they actually paid did not amount even to £3 15s.,—3½ per cent. The institution of the savings banks, as they were all aware, was due to a desire on the part of the Government to promote and encourage habits of thrift among the lower classes of society, working men, domestic servants, and young people who otherwise would probably waste their little funds. It was never intended that these banks should become sources of investment for capitalists; the regulations did not allow any one person to deposit more than £30 in one year, nor have more than £150 to his credit, and when his deposits (with accumulated interest) amounted to £200, the interest payable ceased altogether. It would thus be seen that these savings banks were only intended to benefit people of small means, and to encourage habits of thrift among the working classes, and it was in the interests of these classes alone that he had brought forward this motion. He presumed it would be admitted that neither the Government nor the general public desired to make any profit out of the savings of these people, and, if the rate of interest could be increased to 5 per cent. without any loss to public funds, he was sure the House would be glad to give the depositors in the savings bank the benefit of it. He thought he could show that even at the rate of 5 per cent. the transactions of these banks would more than meet the expenses. According to one of our local Acts—for

there were several of them—controlling the management of these institutions (the 29th Vict., No. 13) it was provided that the Colonial Treasurer shall invest two-thirds of the entire deposits in real securities within the colony. He was sorry to say the Colonial Treasurer did not in this respect follow out what the law enjoined upon him. If he did so—if he were to invest two-thirds of the entire deposits in real securities, he could at least obtain $7\frac{1}{2}$ per cent. upon the money. The interest realised upon such investments, in fact, during the last two years would probably not be less than 8 or $8\frac{1}{2}$ per cent. But putting it at the lowest ($7\frac{1}{2}$ per cent.), if the Colonial Treasurer had, as he was required to do by the Act, invested two-thirds of the entire deposits in real property in the colony, we should have been enabled, without any loss, to have allowed the depositors interest at the rate of 5 per cent. upon the total amount of their deposits. That was a self-evident proposition. If we received $7\frac{1}{2}$ per cent. on two-thirds, that would be equivalent to 5 per cent. on the whole. Then, again, with regard to the remaining one-third. The Act required the Colonial Treasurer, after providing an amount which the Governor of the colony should deem sufficient to meet any sudden withdrawals of deposits, to invest the balance in some securities guaranteed by Government, or deposit it with some approved bank in the colony. So that after investing two-thirds of the deposits on mortgage of real property, the Colonial Treasurer could, after making the necessary provision for any sudden withdrawals, place the balance as a fixed deposit, bearing interest, in one of the local banks. The amount required to meet withdrawals must be very small. The deposits year by year were gradually increasing in amount, and the amounts paid in more than covered the amounts withdrawn. According to the figures given the other day by the Colonial Secretary, the total amount of monies deposited in the Savings Bank, on the 30th June last, was £26,118 18s. 10d., of which sum £15,450 was invested on mortgage, leaving £10,668 18s. 10d. uninvested. The Colonial Secretary, he believed, informed them at the time that a portion of this latter amount was

placed with one of the banks on fixed deposit, bearing interest at a certain rate; if that was not so, if the Colonial Treasurer was receiving nothing for this £10,668, all he could say was he was not doing his duty under the Act. The amount which on the 30th June last ought to have been invested in real securities—taking the total amount of deposits roundly at £26,000—was £17,330, and the balance £8,670 should, after setting apart a sufficient sum to meet withdrawals, have been invested in some bank or other guaranteed security, which would have been clear profit to the Government. In addition to this, as he had already said, the Government paid no interest at all on broken periods, or on any amounts less than a pound or the multiple of a pound, so that here again there was a clear gain to the Government. Under these circumstances he submitted they could well afford to allow the depositors interest at the rate of 5 per cent., and still leave a considerable margin of profit, even after allowing for the cost of working these banks, which he did not suppose was very much. In the country towns the local postmasters did the work, and he had never heard that they received any additional pay for these services. At the head office, in Perth, he believed one clerk was specially employed to conduct the operations of the bank, and, allowing this officer a salary of £250 a year, there would still be a considerable margin of profit to the Government, even if they paid 5 per cent. When he said a considerable margin of profit, he meant if the deposits had been invested as they ought to be invested by the Colonial Treasurer. But he was sorry to say this had not been done. As he stated before, the interest which might be received upon investments in real securities in this colony amounted at least to $7\frac{1}{2}$ per cent., whereas it appeared the Government had not received anything like it. Although they had deposits amounting to over £26,000, the total amount of interest received on investments during the past year was only at the rate of 4 per cent. on the whole. He thought he might safely say if this amount had been placed in the hands of any business man, an hon. member of that House, he would have made a great deal more than that out of it. In making

this proposal he was only following the course adopted in the neighboring colony of South Australia, where he was told they allowed 5 per cent. on the savings bank deposits. He did not know what they paid in the other colonies. But if the House was satisfied that the Government would not lose by it, and that by increasing the present rate of interest they would be further promoting habits of industry, thrift, and he might say temperance among our working classes, he was sure the committee would support him in this address.

THE COLONIAL SECRETARY (Hon. M. Fraser) said he quite commended the good feeling which had prompted the hon. member to move in this matter, and fully appreciated the interest manifested by the hon. member in the welfare of the working classes. No doubt, as the hon. member stated, the first intention of the Act under which these banks were established here and the Colonial Treasurer was made banker, twenty-one years ago, was to promote habits of thrift and economy among the industrial classes. Quite right. These banks, he believed, had worked favorably, and, although the deposits in them never reached any very large sums, no doubt they had proved of great advantage to those for whose benefit they were mainly established. But the hon. member must be aware that the margin between the profits realised by the Government and the amount of interest paid to depositors was very small indeed. It was all very well to say that this and that might have been done with these deposits. That was not the question. The question before them was, what had been done,—and hon. members might rest assured that what had been done had been done with proper care, and diligence, and circumspection, as contemplated by the statute. And what was the result? A very small margin of profit indeed. Last year the interest credited to depositors amounted to £880 11s. 9d., and the interest received on investments was £1,064 10s. 8d., leaving only a balance of £184. Taking into consideration the clerical work in connection with the working of these banks, he thought it would be admitted that the margin of profit was a very small one. The hon. member stated he did not know exactly what the

rates of interest were in the other colonies, and what the conditions were upon which these institutions were worked among our neighbors. He would inform the hon. member. Taking the colonies generally, it would be found that the interest we are paying was pretty nearly the same as they were paying, but the conditions differed, and, on the whole, were somewhat in favor of the depositors here. Under the 7th clause of our principal Act the interest payable to depositors was fixed at the rate of £3 15s. per cent. per annum, and this interest was calculated monthly, and at the close of the year was added to and became part of the principal money. In Victoria the position of affairs was this: sums from 1s. to £1,000 were received on deposit, but interest was not allowed on larger deposits than £250, the rate of interest paid being 4 per cent.,—only a trifle higher than here. In New South Wales, it was true, interest was allowed at the rate of £5 per cent., up to a certain amount; but, on the other hand, no interest at all was allowed on any deposit exceeding £100, and the total amount that could be deposited was limited to £200. In Tasmania interest at the rate of £3 10s. only was allowed by the Government Savings Bank, and on sums not exceeding £150. In Queensland, interest was allowed at the rate of between £4 and £5 per cent., according to circumstances; and in South Australia the interest varied with the profits made. Sums of from 1s. to £500 were received on deposit, but no interest was allowed on sums of less than £1 nor more than £250, and no interest was paid on any sum unless the account was kept open until the annual balance. It would thus be seen that in all the colonies there were certain restrictions, and that, on the whole, although the rate of interest here was lower than in most of the other colonies, there were some compensating advantages derived by depositors which were not enjoyed by the patrons of these institutions in the other colonies. The Government here did not wish to rival either banks or financial companies promoted for the purpose of negotiating money matters. They looked upon these savings banks solely as establishments for the encouragement of thrift among the poorer classes, and it could not be

denied that the institution had worked well for many years, though only leaving a very small margin of profit,—quite incommensurate with the benefits derived from it by depositors and the amount of labor bestowed upon its working by the Government. In the other colonies the amounts invested in these banks were very large—probably a hundred-fold larger than here, and of course the larger the amount the smaller, proportionately, would be the cost of working and management. He assured hon. members that every care and prudence was shown by the Government in dealing with these deposits. It was all very well to say that the Colonial Treasurer had been remiss in this or that duty, in following out the precise wording of the Act; hon. members must allow that in dealing with trust money the greatest care and caution must be exercised, and no advances made except upon the very best security. Of course a private individual was at liberty to speculate as largely and as rashly as he pleased, with his own money, in the hope and expectation of realising large profits. But in all these speculative transactions there was a certain amount of hazard, and it would not do for those in charge of trust monies to hazard anything. In every investment made with such monies the utmost care must be taken, and had been taken by the Government of this colony, and when it was seen that the profit to the Government on last year's transactions was only £180—apart from the cost of working these banks—he thought the House would agree with him that the present rate of interest was a fair rate. He did not suppose hon. members would wish to see the public revenue charged with any loss that might result upon the transactions of these savings banks—which was what 5 per cent. really meant. He was not aware of any complaint on the part of the public as to the present rate of interest. If this was considered a fair rate of interest twenty years ago, when rates were much higher than now, he thought no objection could reasonably be taken to it, and he did not think hon. members would regard the present an opportune time for increasing the charges upon our revenue, which would be the case if the motion of the hon. member for Perth were adopted, and 5 per cent. interest

were allowed on all deposits already made and that may hereafter be made.

The motion was then put and negatived.

MEDICAL OFFICER FOR GASCOYNE DISTRICT.

IN COMMITTEE:

MR. BROWN moved, "That an humble address be presented to His Excellency the Governor, praying that he may be pleased to place upon the Estimates the sum of £200 as a salary for a medical officer for the Gascoyne District." Hon. members would probably remember that last year they voted £100 on the Estimates for the salary of such an officer, and that this small sum had been an insufficient inducement to enable the Government to obtain the services of a medical man for the district. Although the Government succeeded, with this small retaining fee, in securing medical officers for the Southern and more populous districts of the colony, it did not—nor was it likely, he was afraid—to prove a sufficient inducement to enable them to get a medical gentleman to go and reside in the tropical, or semi-tropical districts of the colony. Even in the Nicol Bay District the Government a short time ago found itself obliged to increase the salary of its resident medical officer to £200, in order to retain his services; and he thought he was justified in saying that, but for that increase of salary, it was very likely that for months past the Nicol Bay District would have been without a medical officer, although that officer's income was handsomely supplemented by the settlers of the district. It was not likely that in a sparsely populated district like the Gascoyne, the settlers, about 70 in number, could contribute so largely towards the salary of a medical officer,—and he thought that was rather an argument in favor of increasing the Government subsidy than otherwise. But he believed he was justified in saying that the settlers would contribute £100 annually. He would also remind the House and the Government that they had a responsibility with regard to the native population of the district, who, during the past few months, had been suffering from a disease which had caused considerable ravages amongst them.

THE COLONIAL SECRETARY (Hon. M. Fraser) said if the Government possessed the purse of Fortunatus probably they could not do better than provide a medical officer for the Gascoyne District, the very first thing. But they must bear in mind how limited the means of the Government were, and how many other districts there were, throughout the colony, all making demands upon the public purse. The hon. member said the settlers of the district were prepared to supplement the grant by £100; but that did not do away with the claims of other districts to consideration, and he really did not know where the money was to come from. Under the circumstances he hoped the hon. member would be content with the same vote as last year, upon the assurance of the Government that every effort would be made to secure the services of a medical officer for this district. The hon. member had told them that the whole of the white population of the district did not number more than about 70 settlers. If the House voted £100 annually to provide medicine for these seventy healthy settlers, he thought it would be behaving very liberally,—bearing in mind all the other claims upon its consideration.

MR. BROWN said he did not wish to pledge hon. members to vote this amount when it appeared on the Estimates; this was simply the usual form adopted to have the vote placed on the Estimates for the consideration of the House in committee. He thought he had shown a good reason why the vote should be increased to £200. It was all very well to say that if he would be satisfied to let the amount stand as it was, the Government would do their best to secure the services of a medical officer. He believed they had already done their best in the matter, with the £100 at their disposal; but they had not succeeded in getting a doctor for the district, and he did not see that there was the slightest chance of their doing so in the future. If, however, the hon. gentleman would state that he had reason to believe that the Government could, within a reasonable period—say four or five months—secure the services of a proper and suitable medical man, with the present provision made on the Estimates (£100), supplemented by a guarantee of another £100

from the settlers of the district—a guarantee which he (Mr. Brown) himself would join in—he would withdraw this motion. But if the hon. gentleman was not prepared to do that, he should feel it his duty to take the sense of the House on the subject.

THE COLONIAL SECRETARY (Hon. M. Fraser): I do not profess to say—it is impossible for me to say—whether an officer may be obtained; all I can say is, if we can obtain him he shall be sent there.

MR. BROWN said he must therefore put the question to the test of a division; the result being,—

Ayes	9
Noes	11
Majority against				2

AYES.	NOES.
Mr. Crowther	Hon. A. P. Housman
Mr. Davis	Hon. J. Forrest
Mr. Higham	Mr. Mason
Mr. Marmion	Mr. Clyde
Mr. McRae	Mr. Hamersley
Mr. S. H. Parker	Sir L. S. Lenke
Mr. Randall	Mr. Loton
Mr. Veun	Mr. S. S. Parker
Mr. Brown (Teller)	Mr. Shenton
	Hon. J. G. Lee Steere
	Hon. M. Fraser (Teller)

The motion was therefore negatived.

MESSAGE (No. 25): CORRESPONDENCE WITH MR. HORDERN RE AMENDMENTS IN TERMS OF RAILWAY CONTRACT.

THE SPEAKER announced the receipt of the following Message from His Excellency the Governor:

"With reference to the Address of 'the Honorable the Legislative Council, 'No. 29, dated the 22nd instant, the 'Governor has the honor to enclose, 'herewith, for the consideration of the 'Council, the correspondence noted in 'the margin.*

"2. It will be seen that the Governor, 'in transmitting to Mr. Hordern a copy 'of the Resolutions of the Council on 'the subject of the Contract for a Land 'Grant Railway between Beverley and 'Albany, requested that gentleman to 'state whether he was prepared to con- 'clude a contract containing the amend- 'ments proposed by the Legislature, 'and that Mr. Hordern, in his reply,

* 1. The Honorable the Colonial Secretary to A. Hordern, Esquire, Letter dated 23rd August, 1881.

2. A. Hordern, Esquire, to the Honorable the Colonial Secretary, Letter dated 25th August, 1881.

"takes exception to these amendments on certain points, and makes some fresh proposals.

"Government House, Perth, 27th August, 1884."

The Message was ordered to be considered in committee of the whole, on Thursday, 28th August.

MESSAGE (No. 26): ASSENTING TO BILLS.

THE SPEAKER also notified the receipt of the following Message from His Excellency the Governor:

"The Governor informs the Honorable the Legislative Council that he has this day assented, in Her Majesty's name, to the undermentioned Bills:—

"4. *An Act to declare the terms and conditions applicable to Loans authorised to be raised by the Government of Western Australia, and to provide for the creation of West Australian Inscribed Stock.*

"5. *An Act to Regulate the Punishment of Whipping.*

"6. *An Act to further provide for the prevention of Desertion from any of Her Majesty's Ships.*

"7. *An Act to regulate the Registration of Designs and of Trade Marks in the Colony of Western Australia.*

"8. *An Act to further amend 'The Customs Ordinance, 1860.'*

"9. *An Act to make provision for Bank Holidays, and respecting obligations to make payments and do other acts on such Bank Holidays.*

"10. *An Act to Codify the Law relating to Bills of Exchange, Cheques, and Promissory Notes.*

"Government House, Perth, 27th August, 1884."

MESSAGE (No. 27): REPLYING TO ADDRESSES.

THE SPEAKER also announced the receipt of the following Message:

"The Governor has the honor to inform the Honorable the Legislative Council that he will have much pleasure in giving effect to the wishes of the Council, as conveyed to him in the following Addresses during the present Session:—

"No. 7. Increase of £100 to the salary of the Postmaster General.

"No. 9. Local Court at Bridgetown.

"No. 10. Contribution towards the cost of a Town Hall at Albany.

"No. 12. Increased provision for a Medical Officer in the Kimberley District.

"No. 13. Landing Platform, Ashburton River.

"No. 15. Local Court, Victoria Plains.

"No. 16. Perth and Fremantle Cemetery Reserve.

"No. 17. Bridge over the Wilgarrup Brook.

"No. 19. Contribution towards the cost of a Town Hall at Geraldton.

"Government House, Perth, 27th August, 1884."

MESSAGE (No. 28): ANNEXATION OF NEW GUINEA, AND FEDERAL COUNCIL BILL.

THE SPEAKER notified that he had received the following Message from His Excellency the Governor:

"The Governor has the honor to inform the Honorable the Legislative Council that, on the receipt of Addresses Nos. 2, 3, and 4 of the current Session, he informed the Right Honorable the Secretary of State for the Colonies, by telegraph, of the views of the Council with regard to Imperial action in New Guinea and the Pacific Islands; with regard to the draft Bill for constituting a Federal Council for Australasia; and with regard to the immediate employment of an Imperial Commissioner on the coasts of New Guinea.

"2. The Governor has also transmitted the Addresses to the Secretary of State, by despatch.

"Government House, Perth, 27th August, 1884."

MESSAGE (No. 29): REPLYING TO ADDRESSES.

THE SPEAKER also announced the receipt of the following Message:

"The Governor has the honor to inform the Honorable the Legislative Council that he will take action, in accordance with their Address No. 14 of the current Session, on the subject of Public Works expenditure at Derby; also, in accordance with their Address No. 22, on the subject of the Police Reward and Benefit Fund.

"2. Though he cannot but hope that the policy of the leading Colonies in the matter of the Importation of Live Stock from countries beyond Australasia will before long be adopted in this Colony, the Governor is ready, for the present, to bring into force Regulations as recommended in Address No. 26, and will at once take the necessary steps.

"3. Proposals will be made, upon the Estimates of 1885, for the purpose of organising the Works and Railways Departments in the manner suggested in Address No. 21.

"4. Provided that inquiry shows that a Telephone Exchange between Perth and Fremantle can be established on a self-supporting basis, the Governor is prepared to act upon Address No. 8.

"5. Before altering the law regulating the powers and responsibilities of the Harbor Master of Fremantle, as recommended in Address No. 20, the Governor thinks it best to make some inquiries as to the rules and practice in other ports of a similar character.

"6. The request of the Honorable the Legislative Council, contained in their Address No. 23, that a Telegraph Station may be established at the Fortescue River, will be considered as favorably as circumstances admit.

"7. The Governor has caused the Agents of the Adelaide Steamship Company to be communicated with, in accordance with the terms of Address No. 28 of the Council.

"Government House, Perth, 27th August, 1884."

CATTLE TRESPASS ACT, 1882, AMENDMENT BILL.

MR. S. H. PARKER, in moving the second reading of a bill to amend the Cattle Trespass Act passed two years ago, said it would be remembered that the Act in question consolidated in one Act the various fencing, trespass, and impounding statutes then in force, and amongst the Ordinances so consolidated was one passed in 1865, being an Ordinance to provide summary redress in cases of minor trespasses. That Ordinance was passed before the District Roads Board Act became the law of the colony, and, for some reason or other, the second

clause of it was incorporated with this consolidation Act, and became the 14th clause of that Act. The object of the present bill was to repeal that clause. It was a clause reserving to the public the right to pass and repass, with or without cattle, along any track, path, or road leading from any customary or declared public road to any town or habitation to which such track or path led, no matter over whose land it went. The result was that the owners of land traversed by these paths were debarred from fencing them, and it had been found that this was very inconvenient. As he had already said, this clause was originally enacted twenty years ago, before local Roads Boards were established. The Roads Boards Act gave full powers to these boards to declare what shall be main or minor roads within their respective districts, and it provided that no track which had been in general use by the public for a period of twenty years shall be fenced across or otherwise blocked up unless the Road Board recommended such a course and the Governor approved of it. The work "track" was defined as a track which had been ordinarily used by wheeled vehicles, carts, or carriages. So that under the Roads Board Act full provision was made to prevent any person fencing across a track or road that had been in use for a certain number of years, if the Road Board thought the public would be inconvenienced by such fencing. The 14th clause introduced into the Cattle Trespass Act of 1882—which, as he had already said, was substantially the same as the clause in the Ordinance of 1865—seemed to have overlooked this provision, and made it absolutely unlawful, under any circumstances, to fence across any path to which the public had obtained a prescriptive right, and it had been represented to him—not by his own constituents for it did not affect them—but by people in the country, that this was a great hindrance in some cases to these people fencing their lands, and making such use of them as they otherwise had a right to. These paths and tracks, especially in the vicinity of townships, generally traversed the land in all directions, and if the owner was to be prevented from fencing across any of them it would be seen that he was placed at a great disadvantage. The object of the

present bill was to repeal this clause, leaving it to the Roads Boards, if they thought proper to exercise the power vested in them, to prevent the fencing across of any track which had been in general use by the public. The bill also reserved all the rights of the Crown in these matters. He now moved its second reading.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said before the question was put, he desired to say a word or two. He must confess that he had not yet heard a reason which would induce him to vote in favor of the bill. In a large territory like this it was quite obvious that the roads that were made for the public—the public roads notified in the *Gazette* as main or minor roads—were not nearly sufficient for the purposes of the inhabitants, especially in country districts, and that if all the side-walks and paths throughout the colony were to be closed, people would be put to very great inconvenience. For instance, if they were debarred from going across a track which had been in use for many years, leading from a declared road to a town or a station, they might have to go many miles round,—in fact they might be absolutely stopped altogether from getting to their own homes, for there must be many houses to which there was no access at all unless you passed over other people's land. This colony was not like England or any other thickly-peopled country, where there were roads in every direction; it was unable to provide other than a few main roads; and if people were not allowed to go across the lands of their neighbors, which not so long ago were only waste lands, they might be cut off from communication with other places altogether. The Trespass Act passed two years ago (46 Vict., No. 7) provided that it should not affect the right of any person to pass and repass along any track leading from any customary or declared road to the towns or habitations to which such track led; and the word "track" was defined in the Roads Board Act, 1880, as "a track which had been ordinarily used by wheeled vehicles, carts, or carriages." Therefore, inasmuch as the public had acquired certain rights over these lands, the parties purchasing or leasing them did so subject to those

acquired rights. It was the same in England and everywhere else where the English law obtained. If people were to be shut out from travelling anywhere, in a colony like this, except over the main roads, they would practically be debarred from travelling at all. Even close to the large towns people had acquired these rights; and there was no difficulty in the way of fencing—except perhaps a little more expense in providing gates, or stiles, as the case might be. If this bill became law it would throw a doubt upon the rights acquired by the public, and he thought it would be most dangerous to interfere with the rights of the public in this respect. In every civilised country, people had to give and take in this way; and individuals must to certain extent submit to an inconvenience, for the general good. If this bill passed, they would be throwing a serious doubt as to the rights of those who may have been in the habit of using paths for many years, paths which had become a public right-of-way; and, certainly, with the present information before the House, he could only vote against it. The Act which it sought to amend was only passed two years ago, and he was not aware of any outcry against it. The hon. member who introduced the bill acknowledged that he did not bring it forward in the interests of his constituents, but in consequence of representations from country settlers. But they had to look upon the Act as applying to the whole colony, and not in the interest of an individual here or there who might be inconvenienced by it.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) thought it would be inadvisable to repeal the clause in question for this reason: there were very few declared roads throughout the whole colony, and consequently people were bound, if they wanted to move about at all, to do so over the lands of their neighbors. Although they had had Roads Boards in existence all over the colony for many years past, who looked after the making of roads pretty well, he could not say that they had done much to bring the roads under the statute. He knew of roads that had been in use for twenty and even forty years but had not to this day been brought under the statute at all; and, except from the

information to be obtained at the Survey Office, the public and the Roads Boards themselves were almost entirely ignorant as to what roads were under the statute and what roads were not under the statute. The roads that had been brought under the statute could always be closed by the process there laid down, and, in cases where they had not been brought under the statute, he thought it was well they should not put too much into the power of people who desired to fence them,—unless some provision were made, retaining the use of such roads for the public, who had been accustomed to use them. There might be exceptional cases, perhaps, where this would be a source of hardship to occupiers of land, in such a district for instance as the Vasse district; but there were many small occupiers who, if they were to live at all, must have access to a river, and if the tracks leading to the river were to be closed in this summary manner, a great deal of hardship and inconvenience would be the result. The Crown allowed the public free access to its lands, and this bill would not very much affect districts where there were still large areas of waste lands; but it would very seriously affect districts where there were large areas of alienated land, in the hands of a few people. He thought it would be better to let the law remain as it stood,—for the present at all events.

THE HON. J. G. LEE STEERE thought they ought to do everything they possibly could to encourage fencing in country districts, and he understood that was the main object of this bill. He believed that in the Eastern Districts the settlers at present did not derive those advantages which they ought to derive from fencing, and which the present bill would enable them to derive. Even if they were compelled to put up gates, of what value would their paddocks be to them then? There were a great many valuable sheep and other stock now in the colony, and, in the event of these gates being left open, a great deal of injury might be done. He had some doubt at first as to the propriety of the bill, but the more he thought of it, the more he liked it. He thought there would be no difficulty whatever in the way of persons removing stock if this amendment were made. He was sure that if Roads

Boards were requested by the settlers of the district—these Roads Boards did not always know what roads the settlers might want—but if the Boards were requested to declare a road a public road, and they considered the request reasonable, he was sure it would be done at once. There could be no doubt of one thing—the bill, if passed, would be a great advantage to owners of property who wished to fence in their lands. It would not interfere in the least with roads that had been in existence for twenty years, as the public had acquired a prescriptive right over such roads.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The public can acquire a right over a road in much less time than twenty years.

THE HON. J. G. LEE STEERE: Under what law?

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The common law of England.

The motion for the second reading of the bill was then put and carried.

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

LEGISLATIVE COUNCIL,

Thursday, 28th August, 1884.

Consideration of Message (No. 55): Amended proposals of Mr. Hordern, re Railway from Beverley to Albany—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

MR. HORDERN'S AMENDED PROPOSALS
RE RAILWAY FROM BEVERLEY TO
ALBANY (MESSAGE No. 25).

On the order of the day for the consideration of His Excellency's Message (No. 25) forwarding further correspond-