Legislative Council,

Tuesday, 21st September, 1909.

The PRESIDENT took the Chair at 4·30 p.m., and read prayers.

PAPERS PRESENTED.

By the Colonial Secretary: By-laws of Bulong Roads Board.

BILL—SEA CARRIAGE OF GOODS.

Report of Committee adopted.

BILL—FISHERIES ACT AMENDMENT.

Second Reading.

Debate resumed from the 16th September.

Hon. W. KINGSMILL (Metropolitan-Suburban): I do not wish in any way to oppose the passage of this Bill. Indeed I recognise a good deal of the wealth of our waters cannot be successfully exploited unless the powers contained in the Bill are given to the Government. It is true the Bill performs what may be termed a legislative miracle in so much as it converts a reptile into a fish. Still I suppose that is what the immense powers given to Parliament are for. But there is one thing I hope the Colonial Secretary, who administers the Act, will take a good deal of precaution about, and that is the regulations as to the killing of turtles on the North-West coast. As no doubt the hon. gentleman knows, the only turtles that come ashore are the female turtles, and they come ashore solely for the purpose of laying eggs; the male turtles never set foot on land: therefore it is obvious the very disparity between the sexes may lead to the termination of the species, far more so than if the two sexes were killed at the same rate. I hope that when regulations are being framed in this connection they will be of such a nature as to properly define and control the killing of turtles on our coast in order that the turtles, which are a valuable asset to the State if properly handled, may be protected for all time. There is a good deal of misconception in the minds of the public in regard to the powers conferred on the Government under the Fisheries Act. There was in the *West Australian* this morning a letter from a gentleman who is very anxious that a close season should be made for certain kinds of fish. That gentleman is evidently unaware of the fact that the necessary powers already exist if the Government choose to exercise them. As to whether the powers should be exercised or not is an open question, but in Section 6 of the principal Act, which gives power to make regulations, it is provided in paragraph (*e*) that regulations may be made for, "determining the times and seasons at which the taking of any species of fish shall commence and cease or be permitted or prohibited"; and Section 8 also provides that the Governor may by proclamation declare that any Western Australian waters shall be closed against the taking of any prescribed species of fish, fishing generally, and the use of nets and lines during any specified time in any year. So it will be seen that ample power exists in two places in the Act for the purpose for which the interference of the Government is asked. Whether that interference would be wise or judicious is left, of course, to the discretion of the Colonial Secretary and to his expert advisers. I have much pleasure in supporting the second reading.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate; reported without amendment: and the report adopted.

BILL—POLICE (CONSOLIDATION).

Second Reading.

Debate resumed from the 15th September.

Hon. R. W. PENNEFATHER (North): This Bill purports to be a consolidation

of the law relating to the police force, and also to contain amendments. The House will always welcome any Bill that has for its object the consolidation of the law on any given subject; because unfortunately a good number of our statutes already on the statute-book are amendments of preceding statutes: and where the amendments are numerous, and of importance, it is clearly advisable to have them consolidated. I am sure the Colonial Secretary will bear it in mind that one of the main objects to bring our law into some handy system is to consolidate each Act as it is brought in. Without consolidation it necessarily means complication, and we cannot alter it until years go by. I was rather disappointed from a perusal of the Bill to see that it is not consolidating the law on the subject, but leaves out several parts of the Police Act of 1892. For instance in Clause 2 of this Bill Parts I. to V. of the Act of 1882 are repealed, leaving the remaining parts from VI. to IX. It would be much more compendious to repeal the whole lot and have one measure.

The Colonial Secretary: The object is to have two measures, one dealing with the police force, and the other dealing with police offences.

Hon. R. W. PENNEFATHER: In this Bill there are a number of offences.

The Colonial Secretary: Only relating to the police force.

Hon. R. W. PENNEFATHER: There are offences in regard to private people. If the object be to have one measure dealing with offences committed by the police in the performance of their duties, and another measure dealing with offences committed by civilians, the object has not been attained and the line has not been properly drawn. This Bill purports to deal exclusively with the appointment and regulation of police officers. Under the Act of 1892, Sec. 5, there is power given there to appoint the Commissioner of Police and to remove him. The Minister will notice that in the Bill the removal of the Commissioner is omitted.

The Colonial Secretary: The Governor-in-Council can always remove the Commissioner; he is appointed under the Public Service Act.

Hon. W. R. PENNEFATHER: According to this he is deemed to have been appointed under this measure, and there is no power provided for the removal. There is power to remove the superintendent and other officers.

The Colonial Secretary: The other officers do not come under the Public Service Act.

Hon. W. R. PENNEFATHER: Power is here given distinctly and unequivocally to appoint a commissioner. Clause 4 directs that the Governor may from time to time appoint a Commissioner of Police who shall hold a commission under the hand of the Governor for such appointment. One would think that power would be given to the Governor to remove him, but it is not contained in the Bill. Then under subclause 3 power is also given during the absence of the Commissioner to appoint a *locum-tenens*. Power is also given to appoint such superintendents, inspectors, sub-inspectors, or other officers of police as may be found necessary who shall hold commissions under the hand of the Governor. Then Clause 7 declares that the Governor may from time to time dismiss or remove any superintendent, inspector, sub-inspector, or other commissioned officer of police, and upon any vacancy in any of the said offices by death, dismissal, removal, disability, or otherwise, appoint some other fit person to fill the same. I submit that power to remove the Commissioner should also be contained in the Bill. He is appointed under Section 4, and once the Governor appoints him there appears to be no power under the Bill to remove him. What is the use of having a clause in the Bill dealing with the removal of the superintendent and others, and not the Commissioner.

The Colonial Secretary: Simply because as I have already stated these officers do not come under the Public Service Act.

Hon. R. W. PENNEFATHER: If the Commissioner comes under the Public Service Act what is the object of providing for his appointment in this measure.

Hon. W. Kingsmill: He is appointed under one Act and dismissed under another.

Hon. R. W. PENNEFATHER: Exactly. I would like to point out to the House that under Clause 7, Subclause 2, the Commissioner may from time to time suspend, and subject to the approval of the Minister, dismiss or remove any non-commissioned officer or constable. That power, I submit, conflicts with the power contained in a subsequent part of the Bill dealing with the power of removal or dismissal for various reasons. Under that clause the Commissioner has an over-riding power notwithstanding what the board may say. I think when the Bill is in Committee that clause should be modified to give protection to a constable, and not allow the Commissioner to come in over the board and dismiss or reduce a constable.

The Colonial Secretary: That is only in cases where it would not be possible to appoint a board.

Hon. R. W. PENNEFATHER: I notice that in a number of clauses dealing with trivial offences by members of the force that the penalties have been increased to what one might call an alarming extent. For instance, I find that in Clause 29 of this Bill power is given to the Commissioner to inflict a fine not exceeding £10. In the Act which is now being repealed the limit is £5. In Clause 31, Subclause 2, the Commissioner has power to inflict a fine not exceeding £10, whereas in the present Act the fine is only £3. In addition he may dismiss a constable from the force. I think this is rather what might be called crushing a butterfly with a wheel; at first you penalise a man £10, and then dismiss him.

Hon. J. W. Hackett: The Minister has to approve of that.

Hon. R. W. PENNEFATHER: So long as we have the present Minister I have no doubt he will do the right thing, but we may not always have him. If a dismissal is to follow, the officer should not be subjected to a penalty of £10.

Hon. J. W. Hackett: How do they recover the penalty?

Hon. R. W. PENNEFATHER: It is recovered under the Justices Act. The marginal note of Clause 32, says "see 1892, No. 27, Sec. 26." Under that section an officer, non-commissioned officer, or constable when charged with an offence is entitled to have his case heard by a board. In the Bill before the House the right of the board is taken away, and it is left to the discretion of the Minister whether the officer shall or shall not have the board. I notice that in Clause 28 there is to be no interference with the right of a commissioned officer to demand a board if he is charged with an offence. In that clause his right is left unimpaired. When it comes to a non-commissioned officer his right is left to the discretion of the department. Having regard to the fact that some of these men may have been in the service a number of years it is a serious thing to be dismissed, because they are entitled to a gratuity after serving 12 years, and if they are dismissed they forfeit that.

The Colonial Secretary: Not necessarily.

Hon. R. W. PENNEFATHER: But they go a long way towards it.

The Colonial Secretary: Under the new regulations they do not forfeit their gratuity at all.

Hon. R. W. PENNEFATHER: That is a very good thing, and the new regulations should have been introduced many years ago. With regard to Clause 39 I wish to draw direct attention to the fact that it is an old friend that we had before us last year. In this, unrestricted right is given to a constable to demand the name and address of a person, and if it is refused he has the power to arrest, and a penalty can be imposed. This is reverting to the old days when ticket-of-leave men were plentiful, and I doubt whether it is in force in any other part of Australia. We have already thrown it out in this House. These are the few observations I wished to make, and I have offered them in no unkindly spirit.

The COLONIAL SECRETARY (in reply): If no other member wishes to speak, I desire to say a few words with regard to the comments that have been offered. With regard to the board, I do not think there are any powers contained in the Bill before the House that are not

necessary for the proper government of the police force. It must be remembered that the police force is very different from a clerical staff or any division in the civil service. If you wish to maintain the police force as it should be maintained, there must be exercised a stricter discipline than would be exercised in respect to other bodies of men. I have known boards granted in the past for very trivial offences such as men gossiping on their beat, and these boards have taken up the time of a resident magistrate and other gentlemen when it might have been sufficient to merely issue a caution, which could just as easily be done by the Commissioner or Superintendent. The difference with regard to the boards proposed in the Bill is that the subject is first referred to the Minister and then it is left to his discretion whether a board should be granted or not. The board would only be granted for serious offences. For a small breach of discipline such as that I have mnetioned, a board, I take it, would not be required or granted. With regard to the power of the Commissioner to recommend the removal or dismissal of a man, this is contained in the existing Act, and, I believe it is a very necessary power. It might be quite impossible to prove before a board that a man was incompetent: yet the Commissioner might satisfy the Minister that the man was a menace to the force, or generally, might be useless. It is quite within the discretion of the Minister to say, "If you have anything to charge this man with, charge him, and the matter shall be brought before a board." It is intended that a man shall first be brought before the board and fined, and then his removal recommended. Then again, in regard to the other point mentioned by the hon. member, that very often a man dismissed would lose his gratuity, the regulations under the Police Benefit Fund practically left no discretion with the board to pay a man anything unless he had served twelve years with good conduct. If it was found that during his term of service he had committed any act of insubordination, then it was questionable whether the board could grant the man a gratuity. The regulations were amended later on so as to give the board discretionary power. They were further amended so that a man should not be punished twice. During a man's service of fifteen or twenty years it may be found that he has committed some trivial offence, and a new regulation was provided, that so long as a man had served twelve years he should receive his gratuity. That is only fair. If a man offends and is brought before the Commissioner or the board he is punished for that offence, but if a man loses his gratuity, which would occur very seldom, he would be punished twice. This regulation has been amended in the direction I have stated. In regard to the particular clause that Mr. Pennefather mentioned—Clause 39—a similar provision exists, but not having exactly the same effect in the present Act. I am aware that the House took exception to this clause previously, but it is quite open to discussion again, and the Commissioner of Police contends that it is a necessary power to give to police officers. It may be said that there is nothing objectionable in asking a person to give his name to a police officer, and it is no hardship for any one to give his name.

Hon. J. W. Hackett: Is it done anywhere else?

Hon. M. L. Moss: If the police were discreet in making inquiries the provision would be all right.

The COLONIAL SECRETARY: Speaking of the police in Western Australia they will, generally speaking, compare favourably with any similar body in the other States. There has been no trouble in the past in this direction.

Hon. A. G. Jenkins: They would have to be better than the police in the other States, because you want to give them greater power.

The COLONIAL SECRETARY: I do not think we give them greater power.

Hon. J. W. Hackett: Why is not this power given in the other States?

The COLONIAL SECRETARY: I am not prepared to say that in the other States the police have not this power.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. Kingsmill in the Chair.

Clauses 1, 2, 3—agreed to.

Clause 4—Appointment of Commissioner of Police:

The COLONIAL SECRETARY moved—

That the clause be postponed.

He wanted an opportunity of looking into the point raised by Mr. Pennefather.

Motion passed; the clause postponed.

Clauses 5 and 6—agreed to.

Clause 7—Governor may remove commissioned officers:

Hon. R. W. PENNEFATHER: Having regard to what he proposed, later on in regard to Clause 38 he moved—

That the clause be postponed.

If he was successful in the amendment of Clause 38 he intended to insert after the word "Commissioner" in this clause, "and subject to the provisions hereinafter contained."

Motion passed; the clause postponed.

Clauses 8 to 11—*agreed to.*

Clause 12—Non-commissioned officer not to resign without leave or notice.

Hon. B. C. O'BRIEN: If an officer of police desired to resign, he would be compelled to give three months' notice. That was a little unreasonable. A constable stationed in the back blocks might have an opportunity of bettering his position, and it was not reasonable for him to give three months' notice. He moved as an amendment—

That in line five the words "three calendar months" be struck out, and "one calendar month" inserted in lieu.

The COLONIAL SECRETARY: This provision had been in the Police Act since 1892. During a rush in the North-West a policeman left his station at Wild Dog Creek and went away. It did not follow that the Commissioner would not accept the resignation of an officer as soon as convenient and would relieve him as soon as possible. The police officer would only be kept until the Commissioner was able to replace him.

Hon. R. W. Pennefather: Had a police constable to resign in writing, or by telegram?

The COLONIAL SECRETARY: By telegram. Frequently resignations were received by telegram.

Hon. B. C. O'BRIEN: In the case of a man stationed two hundred or three hundred miles inland, or any remote place, he would not be the only officer at the place. There was too much red-tapeism in the Police Department with regard to the appointment of officers and men. There was always an inspector or sub-inspector in a district, and no difficulty would ever be experienced in getting men in the way-back districts to act as constables if they could be appointed by the officials there. As it was at present, however, all appointments had to go through headquarters.

Amendment put and negatived: the clause passed.

Clauses 13 to 26—agreed to.

Clause 27—Harbour Police:

The COLONIAL SECRETARY: It was intended that the clause should be made to apply to the Bunbury Harbour Board as well as to the Fremantle Harbour Trust. That amendment was, however, not yet drawn. He moved—

That the clause be postponed.

Motion passed; the clause postponed.

Clause 28—agreed to.

Clause 29—Inquiries into misconduct of non-commissioned officers:

Hon. R. W. PENNEFATHER: There were two matters in connection with the clause which needed amendment. It was provided that the penalty should be increased from £5, as under the Act, to £10. What was the reason for the alteration? Surely a fine of £5 was enough for a constable. It was also provided in the clause that the Commissioner could recommend to the Minister the dismissal or reduction in rank of the accused. It appeared that by this the power of the Commissioner would over-ride the powers of the board. There were therefore two methods of trying offences.

The Colonial Secretary: The only alteration between the clause and the

section of the Act was that the penalty was increased.

Hon. R. W. PENNEFATHER: The difficulty appeared to be that the Commissioner if he liked could over-ride the finding of the board. So long as the Minister in charge was a man of independent spirit it would be all right, but there might come a time when it was necessary that protection should be afforded against the action of the Commissioner. Having regard to Clause 32 however, if the power now existing under the Act were continued, probably the difficulty to which he had referred would be overcome. However, as regards the penalty the smaller sum should still exist. He moved an amendment—

That in line 2 of Subclause 3 the word "ten" be struck out and "five" inserted in lieu.

The COLONIAL SECRETARY: It was only right that the Commissioner should have the power to recommend the reduction in rank or the dismissal of a man. He had no objection to the penalty being reduced to £5.

Amendment put and passed; the clause as amended agreed to.

Clause 30—Inquiries into misconduct of constables:

The COLONIAL SECRETARY: As the penalty in the case of non-commissioned officers had been reduced, it was only right that the penalty in the case of constables should also be reduced. He moved an amendment—

That in line 6 of Subclause 1 the word "ten" be struck out and "five" inserted in lieu.

Amendment passed.

Hon. J. W. HACKETT: In Subclause 1 appeared the words "every such sentence." Did they refer merely to the last sentence mentioned or to all sentences referred to in the clause?

The COLONIAL SECRETARY: The words referred to all sentences mentioned in the clause.

Hon. J. M. DREW: Under the clause power was given to the Commissioner to imprison a constable for 3 days; surely such an extraordinary power as that should not be allowed. He moved an amendment—

That in line 6 of Subclause 1 the words "or to imprisonment for not more than three days" be struck out.

The COLONIAL SECRETARY: It was to be remembered that this was a power which was already on the statute book, and of which no complaint had been made. As a matter of fact it had never been exercised, nor was it likely to be exercised. At the same time a policeman might at any time commit an offence for which he would deserve such punishment. Why, then, should he not be subject to the same penalties as would be incurred by a civilian if brought before a magistrate? Such powers were absolutely essential to the maintaining of the discipline of the force.

Hon. J. M. DREW: Objection was not being taken to the Commissioner having power to fine, but to the Commissioner having the power to inflict imprisonment. Such a matter should be decided by a magistrate.

Hon. R. W. PENNEFATHER: Certainly it seemed too serious a power to place in the hands of the Commissioner. So far the Commissioner had not exercised this power, but still it was a power that he might put into force at any time. Apparently no such provision was made in respect to commissioned officers, yet seeing that a breach of duty in a commissioned officer was a graver offence than in a constable, surely if it were to be applied to the constable it should also be applied to the commissioned officer.

The Colonial Secretary: Hon. members should remember the extraordinary powers given to a constable.

Hon. R. W. PENNEFATHER: That was no reason why the constable should be subjected to extraordinary punishment. Such a punishment as this, if inflicted, would be thrown up against a constable for ever after. In the interests of the force itself the words should be eliminated.

The COLONIAL SECRETARY: Even although the power were not exercised the very knowledge that it was on the statute book served as a good check upon the

force. As extraordinary powers were of necessity given to police constables, so, on the other hand it was necessary to exercise extraordinary control over them.

Amendment put and negatived.

Hon. R. W. PENNEFATHER: By the words "and may recommend the dismissal," power was given to the Commissioner to encroach upon the rights of the board. Again, in the concluding words of Subsection 1, as compared with the existing Act, power was taken from the Minister and given to the Commissioner to approve of his (the Commissioner's) own finding. Was this not making a farce of the whole thing? He moved—

That after the word "recommend" in line 7, the words "subject to the provision hereinafter contained and subject to the approval of the Minister," be inserted.

The COLONIAL SECRETARY: The amendment, if agreed to, would serve to make the clause almost hopelessly involved. In the first place, if the clause were to be amended as the hon. member desired, it would be necessary to move a further amendment in the second line and strike out the word "Commissioner," with the view to inserting the word "Minister." However, it would be very much better to leave the clause as it stood. Offences of this kind should be left entirely to the Commissioner, for it was not necessary that a constable or non-commissioned officer should be tried under this clause at all. A board might be asked for, when the Minister would have an opportunity of saying whether or not that board should be granted. The provisions made in this clause related only to neglect of duty and minor offences. Moreover, it would be remembered that if the Minister were to refuse the request for a board, and leave the constable to be tried by the Commissioner, it was scarcely likely that the Minister would refuse to endorse the finding of the Commissioner. It would be better to leave the matter to be dealt with entirely by the Commissioner.

Hon. J. W. Hackett: Would you leave imprisonment to the Commissioner or to the Minister?

The COLONIAL SECRETARY: I would leave it all to the Commissioner. The constable knows that he has the right to ask for a board.

Hon. M. L. MOSS: In all offences against the Criminal laws, even were the imprisonment that could be imposed was limited to a few hours, there existed the right of appeal: but under this clause there was to be no right of appeal for the policeman except the fine was an amount of over £10. Here the Committee were asked to put this power of imprisonment into the hands of the Commissioner, and not even to be confirmed by the Minister, who was the representative of the people. The Commissioner was to have this right to inflict imprisonment without any limitation of appeal. Would any hon. member be prepared to put the Commissioner in that position? The proposition was outrageous. It was to be a hole and corner inquiry in the Commissioner's office and the degredation of an imprisonment. Such a thing was not to be tolerated for a moment. It was turning the inquiry by the Commissioner into a Star Chamber.

The Colonial Secretary: A member of the force may elect to have it.

Hon. M. L. MOSS: People elected to be tried summarily for offences; but they were tried in open court; the cases were reported; there was a searchlight of public opinion on the presiding magistrate; but here there was an inquiry where there was no appeal, and this we could not tolerate. Under the present Act the Minister had the right of vetoing: but here, once the Commissioner gave his decision, the matter was beyond redemption. Why were the last three lines of Subclause 1 inserted? There was no such provision in Section 24 of the Act. The Minister claimed that Clause 30 was intended to apply where trivial offences took place, such as small breaches of discipline, but there was power of dismissal or reduction in rank. The Act at present was much more sensible in this regard. Any final punishment inflicted was made subject to the approval of the Minister. If we passed Clause 30 we would turn it into an instrument of great oppression in the hands of the Commissioner. If

possible he would move that the clause should be postponed.

The CHAIRMAN: First, is Mr. Pennefather agreeable to withdraw his amendment?

Hon. R. W. Pennefather: Yes.

Amendment by leave withdrawn.

Hon. M. L. MOSS moved—

That the further consideration of the clause be deferred until after the postponed clauses have been considered.

The COLONIAL SECRETARY: It was not necessary to postpone the clause. If the hon. member desired it the clause could be dealt with now. There was no objection to striking out "Commissioner" and inserting "Minister."

Hon. J. W. Hackett: That will not be workable; it is necessary to postpone the discussion.

The COLONIAL SECRETARY: It would be exactly the same as the present clause.

Hon. M. L. MOSS: Though mistaken in some of his remarks, he still found that Clause 24 needed alteration. It was too big a power to give to the Commissioner to inflict imprisonment in that hole and corner way.

Motion passed, the further consideration of the clause postponed.

Clause 31—Inquiry not on oath:

On motion by Hon. R. W. Pennefather the word "ten" in line 5 of Subclause 2 was struck out and "five" inserted in lieu and the clause as amended was agreed to.

Clause 32—Inquiry by a board:

Hon. R. W. PENNEFATHER moved an amendment—

That the words "involving dismissal or reduction in rank" be inserted after "force" in line 3.

He appreciated the observations of the Minister that we should not grant a board for every offence. The law was at present rather a little too loose the other way. Any constable for an offence if in the position to demand a board could get it, but the insertion of these words would control and limit the right to cases of a grave nature.

Hon. M. L. Moss: Most trivial things come in under dismissal or reduction in rank.

The CHAIRMAN: On future occasions hon. members should observe the Standing Order that amendments must be in writing and must be handed to the Chairman.

The COLONIAL SECRETARY: By the clause it was quite within the discretion of the Minister to grant a board. A constable might ask for a board for anything, but it was within the discretion of the Minister whether the board be granted or not. If the amendment were carried the board could only be granted for matters involving dismissal or reduction in rank, but in practice it was almost impossible to say what a charge might amount to until it was heard, because what might appear not serious on paper might turn out to be a serious charge when the evidence was heard.

Hon. R. W. PENNEFATHER: If the Minister did not wish to accept the amendment, very good! He was only endeavouring to enunciate the proposition already laid down by the Minister, because in the clause it was open to any member of the force to get a board. However, if the Minister choose to allow that power to exist there was no objection

Amendment by leave withdrawn.

Hon. R. W. PENNEFATHER moved an amendment—

That in Subclause 2 at the beginning the following words be struck out: "The Minister may in his discretion grant or refuse the request and if granted," and "Thereupon" inserted in lieu.

Under the existing law the constable or non-commissioned officer was placed on the same footing as the commissioned officer, and was entitled to a board, but in this Bill by Clause 28, while the commissioned officer was entitled to a board, a line was drawn between the commissioned officer and the non-commissioned officer or constable, because it was now sought to be made discretionary, as regards the non-commissioned officer, the Minister being given power to grant

or refuse a board. Non-commissioned officers and constables should have the same right as the commissioned officers where threatened with dismissal or reduction in rank, but the Minister had declined to make the limitation in that direction suggested just previously.

The COLONIAL SECRETARY: A few moments previously the hon. member had stated that the constable should not have the power to demand a board.

Hon. R. W. Pennefather: Except in certain offences.

The COLONIAL SECRETARY: At present constables could demand a board. They had frequently done so of late, and boards were demanded for most trivial offences. For instance, a man might be suspended. It would take a long time to appoint the board demanded.

Hon. M. L. Moss: Are these boards honorary?

The COLONIAL SECRETARY: Yes. They generally consisted of the Resident Magistrate, a justice of the peace, and a police officer. Very often it took weeks to appoint a board, and in the end the constable was simply cautioned. It added a great deal of expense to the country, and constables were often idle pending the inquiry. The subclause the hon. member sought to amend made it discretionary on the Minister. If a board were demanded the Commissioner would make a report, and if the offence seemed to be a serious one the Minister would have a board appointed. If boards were to be granted every time an appeal was made, almost the whole of the time of the superintendent of the police force would be taken up in hearing these inquiries.

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

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

AYES.

Hon. F. Connor	Hon. R. W. Pennefather
Hon. J. M. Drew	*(Teller).*

NOES.

Hon. E. M. Clarke	Hon. W. Oats
Hon. J. D. Connolly	Hon. B. C. O'Brien
Hon. J. W. Hackett	Hon. W. Patrick
Hon. F. J. Haynes	Hon. C. A. Piesse
Hon. J. W. Langsford	Hon. C. Sommers
Hon. R. Laurie	Hon. T. H. Wilding
Hon. R. D. McKenzie	Hon. A. G. Jenkins
Hon. E. McLarty	*(Teller).*
Hon. M. L. Moss	

Amendment thus negatived; the clause passed.

Clauses 33 to 37—agreed to.

Clause 38 Apprehension with or without warrant:

Hon. M. L. MOSS: Subclause 3 did not find a place in the present Police Act, it was entirely new. It was a power that was not possessed by any police force, at any rate not in the British dominions. If the power were given a constable to arrest a person for a crime on bare suspicion, it was not like an arrest by a private party where damages could be afterwards sought for wrongful imprisonment: a constable could arrest on mere suspicion and then could proceed to ransack that person's house. At the present time this course could not be done without a search warrant. Members understood when the Colonial Secretary was moving the second reading of the Bill that he was aiming at gold-stealing. It was a pity then that the power was not clearly defined. He moved an amendment—

That Subclause 3 be struck out.

The COLONIAL SECRETARY: The clause was a new one and at first glance might appear to give to a police constable a very big power. After arresting a man for a misdemeanour a constable would be given the power to search premises without a search warrant. This was required principally to deal with a gold stealer. A constable might be watching a gold thief and might then require to proceed to his premises without delay to secure the necessary evidence on which to convict. After all it was not a wider power than existed at the present time. In the ordinary way a constable could obtain a search warrant within 5 or 10 minutes. It had to be remembered too that a constable was amenable to all the powers

contained in the Bill. There would not be any great harm done by passing the clause.

Hon. M. L. MOSS: At the present time if a person was suspected by a police constable of doing wrong the constable had only to go before a justice of the peace and obtain a search warrant. There was the safeguard that the justice of the peace could exercise discretion as to whether there were or were not sufficient grounds on which to grant the search warrant. In the instance the Colonial Secretary mentioned, where the constable was watching a place, the constable could very easily proceed to such a place armed with a search warrant. It was not to be supposed that the provision would be abused in places like Perth and Fremantle, but it might be abused where there were, say, only one or two policemen in a country town, and where they might subject the male occupant of a house, or his wife and children, to the inconvenience of turning the place upside down without any reason.

Hon. A. G. JENKINS: No greater powers than those provided in the clause could possibly be asked for. These were the sort of things that they complained about in Russia. Simply because a police constable had a suspicion it was proposed that he should be allowed to turn a house upside down. It was all very well for the Colonial Secretary to say that the clause was intended to apply only to gold-stealing, but any constable might go into a man's house whether he suspected the occupant of gold-stealing or not. Such a state of things could not be allowed to exist for one moment and the clause should not be passed.

(Sitting suspended from 6·15 to 7·30 p.m.)

Hon. W. PATRICK: It would be monstrous if this provision were allowed to go on the statute book.

Hon. J. M. DREW: It would not be wise to give such power to the local policeman. In country districts the local policeman was the local despot. It was easy to get a search warrant. The constable had to go to a justice of the peace and on oath give his reasons for requiring a search warrant. To his knowledge policemen had taken extreme action. In one case a man incurred certain liabilities to a tradesman, promising to pay when he received his wages. When he got his money he drank it and the policeman arrested the man for false pretences.

Hon. R. D. McKENZIE: Whilst the subclause might be a benefit on the larger goldfields where gold-stealing and illicit gold buying was going on, it seemed to be a drastic provision to be given generally; therefore, he would vote for the amendment. It was possible to take out a search warrant. On the goldfields a search warrant was frequently obtained, but before the constable was able to present the warrant the person having received information removed all traces of the stolen goods.

Hon. R. W. PENNEFATHER: The main objection to the provision was the tendency to lead to breaches of the peace. A constable should produce his search warrant before entering on the search. The mere fact that a constable had not a search warrant might be resented. It was a dangerous power to give to a constable.

Amendment put and passed: the clause as amended, agreed to.

Clause 39—Power to demand name and address of suspected person:

Hon. R. W. PENNEFATHER: This provision was too strong, for it provided that a constable could demand the name and address of a person whom he suspected about to commit an offence. He moved an amendment—

That in line 2 of Subclause 1 the words, "or is about to commit" be struck out.

The COLONIAL SECRETARY: This provision was contained in Section 50 of the present Act. A policeman could now arrest a man on suspicion.

Hon. C. SOMMERS: It might be left to the discretion of the constable as to whether a man should be arrested. A man might be reasonably suspected of being about to commit an offence.

Hon. W. PATRICK was in favour of the amendment. When the Bill was be-

fore the House on a previous occasion, the Committee unanimously struck out this provision.

The COLONIAL SECRETARY: At present a constable could demand the name and address of a person if he suspected that person was about to commit an offence. It was the present law.

Hon. W. PATRICK: If the amendment were carried the police constable would still have large powers, because he could arrest a person without a warrant if he suspected the person of having committed an offence.

Hon. E. M. CLARKE: The clause should stand as printed. A constable might see a man running out of some premises, and he would be almost certain that the man had committed an offence.

Hon. M. L. MOSS: There was power to arrest in such a case, if the clause was amended.

Amendment put and passed.

Hon. R. W. PENNEFATHER moved a further amendment—

That in Subclause 2 the words, "any person who when applied to as aforesaid neglects or refuses to give his name and address, or either of them, or gives a false name or address" be struck out.

Last year the Committee almost unanimously agreed that this provision should be deleted. It was reminiscent of the day when we had ticket-of leave men roaming about. It was not desirable to perpetuate that.

The Colonial Secretary: How would the clause read if the amendment were carried?

Hon. R. W. PENNEFATHER: Perhaps it would be better to withdraw the amendment so as to allow the further consideration of the clause to be left over until after the postponed clauses had been dealt with. It was necessary to repeal the unregulated right given to a constable to demand a person's name and address. He would, however, ask permission to withdraw the amendment.

Amendment by leave withdrawn.

Hon. R. W. PENNEFATHER moved—

That the clause be postponed.

The COLONIAL SECRETARY: There was no necessity to postpone the clause. The Committee had eliminated certain words from the clause, and it was necessary that there should still be a provision for a penalty as regards the offence set out in Subclause 1. He hoped the motion would be withdrawn.

Motion negatived.

Clause as previously amended, passed.

Clauses 40 to 49—agreed to.

Clause 50—As to disposal of effects of non commissioned officers or constables dying intestate:

Hon. C. A. PIESSE: The Commissioner was being given tremendous power by this clause, for it would enable him to sell the effects of a deceased constable and hand over the proceeds to his next of kin so long as the amount did not exceed £100. Members had no right to give such a power to the Commissioner for it was a species of robbing the police force of their civil rights. Some of the effects might be dear to a man's widow, and she might have other means wherewith to pay the funeral expenses.

Hon. M. L. Moss: It is only a permissive clause.

The COLONIAL SECRETARY: The clause was the same as in the Act, except that the sum was raised from £50 to £100.

Hon. C. A. PIESSE: It was not right that such power should be placed in the hands of the Commissioner.

Hon. M. L. MOSS: There were similar instances on the statute book. For instance, it was provided that where a man had £50 or £100 in the Savings Bank that sum could be paid over to his widow or next of kin without it being necessary that certain administration fees should be paid. The clause provided a great benefit in the case of a policeman who died intestate, for it prevented the widow from being saddled with the cost of administration, duty, fees, etc. Without this clause the next of kin, or widow, in order to claim a property would have to go to the Supreme Court, get bondsmen, etc., and be put to some considerable expense in addition to much delay. The provision was a very beneficial one.

Clause put and passed.

Clauses 51 to 59—agreed to.

Postponed Clause 4—Repeal of Section 66 and 7th Schedule:

Progress reported.

BILLS (2)—FIRST READING.

1. Legal Practitioners Act Amendment, received from the Legislative Assembly, and on motion by Hon. M. L. Moss, read a first time.

2. District Fire Brigades Act Amendment, received from the Legislative Assembly, and on motion by the Colonial Secretary, read a first time.

BILL—MUNICIPAL CORPORATIONS ACT AMENDMENT.

Second Reading.

Resumed from the 15th September.

Hon. J. W. LANGSFORD (Metropolitan-Suburban): This Bill, which introduces the question of increasing the ratings should, as Mr. Moss said, have been introduced in another Chamber before being discussed here, for we cannot deal with the money clauses of the Bill until the measure comes back to this House. The main provision of the Bill seems to me to be in accord with the principles of economy which the Government are instituting all through. Various expenses which have previously been borne by the Government are now sought to be passed on to municipal councils. The attention of the municipal councils throughout the State should be drawn to the increased responsibilities which they will be compelled to bear after the passage of this Bill. I am told that with one or two exceptions the provisions of the Bill are not known to the municipal councils of the State. As there is a municipal conference to take place here towards the end of this month, I hope the Bill will not go through Parliament before the delegates to that conference have been given an opportunity of looking at the provisions. The Bill provides for the taking over of bridges in municipalities, for permitting subsidies to be spent on general and private hospitals, and for increasing the rating power from eighteenpence to two shillings on the general rate. There are two or three clauses to which I would like to refer in passing. Provision has been made in Clause 12 defining what shall be improved lands. We know that in many instances a fence round a property is counted as an improvement, and the rate is fixed according to the improved value of the land. Now this provides that no improvements shall be reckoned unless the value is 20 per cent. of the unimproved value of the land or £30 per foot to a main frontage. That ratio of improvement is certainly less than is provided in the taxation sections of the land tax. This is possibly a very just provision, although I do not think the municipal councils have had the matter before them. One or two may have had it but the big majority of the 50 municipalities in this State have not seen it. In regard to the same clause, Subsection *d*, the annual value of rateable land unimproved shall be taken to be not less than £7 10s. Now I think there should be no objection to making a fixed rate. I know it has been confusing to several councils, and although the intention of Parliament, I believe, was to keep the rating at 7½ per cent., in some instances 10 per cent. has been charged. I think if these words "taken to be not less than" were omitted from the clause the meaning of it would be perfectly plain.

Hon. M. L. Moss: It would be worse confusion, because you would not know whether you were paying on the rental or the 7½ per cent.

Hon. J. W. LANGSFORD: There would be no rental—it is unimproved land. I can hardly see, unless a property is fenced, or has some building on it, how it would be bringing in a rental. I think in the interests of plainness those words might be struck out. The clause dealing with the increase in rating, I understand, we cannot debate. We may have an opportunity later on of doing so. I think we ought to guard the rating clause. I do not know that the councils have asked for this. I think that with the reduced subsidy our municipal councils, as well as the Government, will have to show some economy, and this is a means of allowing them to increase their rating. In regard to Clause 14, providing for the registration of houses that are untenanted and allowing a rebate on the general rate for a certain period; this

clause should be made obligatory on the councils. I do not think for one moment it ought to be left to their discretion or their judgment, because they may have one rule this year and a new one next year. I think it would certainly be upsetting the financial arrangements of the councils if it were adopted to any extent. And there is not the slightest doubt that anybody having a chance to register under this clause would be quite entitled to register. The provision made in Clause 15 whereby the Government can hand on to the councils the control of any bridge within a municipal area is, I think, something that requires careful guarding. Under the present Act provision is made that the consent of the council must be obtained before this can be done. Now in the Metropolitan-Suburban Province there are many bridges which will have to be taken over by the councils if this clause be passed ; in the Guildford municipality there are three or four bridges, and we have the causeway connecting Perth and Victoria Park, and again the one mentioned by Mr Moss last week, namely the bridge at Fremantle. Apparently, the municipalities are to be saddled with the expenses that this clause provides, without their consent, without their being asked, "Will you come in and help the Government in this regard ?" This provision places the power in the hands of the Government to hand these bridges over to the municipalities within whose boundaries the bridges are. I certainly think the wishes of the respective municipalities should be obtained and their consent also obtained before this be done. I can quite understand that where there are one or two small bridges the expenses would not be very much. But, take the causeway for instance. If this be saddled on to Victoria Park to maintain and to keep in repair, it means that they must have an engineer who understands something about bridges. Now most of our municipal engineers, possibly, are not thoroughly competent in that respect. They know how to set out roads, and how to make roads, but if we are to have men with the requisite knowledge to keep these bridges in proper order it means largely increased expense to the municipalities. The present Act provides that this cannot be done without the approval and consent of the municipal councils, and I certainly think that principle ought to continue to obtain. I cannot see why the Government in their endeavours to effect economy should force these municipalities to undertake this upkeep.

Hon. M. L. MOSS : They have not the revenue to do it.

Hon. J. W. LANGSFORD : There are many reasons, more especially in respect to these bridges that have big spans and are expensive in their upkeep. The clause further provides that the municipalities which use the bridges or are connected with them in any way must share in the upkeep. Now take the causeway ; there are half a dozen municipalities that have the benefit of that bridge. There are South Perth, Queen's Park, Victoria Park, Belmont Roads Board, Canning Roads Board, and Gosnells, and one or two others. Now supposing the upkeep of this bridge is placed on Victoria Park. They would have to go to the trouble of making arrangements after the thing was done with all these other municipalities. Now if this be done at all let all these arrangements be completed before they take over the bridge. Let each municipality understand how much it has to pay, how much the upkeep is going to cost, and how it will be distributed amongst the various municipalities. I think a very good course to adopt would be to strike the whole clause out. In respect to Clause 8, which deals with dangerous buildings, the present Act provides that the council shall have the responsibility of pulling down dangerous buildings, whereas this Bill provides that it shall be at the discretion of the surveyor. Now I do not know why that should be. I think the council in a matter of this kind should take the whole responsibility. This is a very serious responsibility and should not be left to the surveyor. He reports to the council and the council says "Take whatever

steps are necessary in the interests of safety." To revert to the exemption from rating for untenanted houses—it merely refers to the general rate. The health rate, the loan rate, and the sanitary rate continue; when it is the revenue being obtained from the general rate that is always continuing. It seems to me fair that if exception be made in regard to the general rate it should be made also in regard to the loan rate and the water rate; these are services that are not wanted.

Hon. W. Patrick: Water is not a rate.

Hon. J. W. LANGSFORD: There is a water rate in Perth, as the hon. member would know if he lived in Perth. It is struck and has to be paid, and it can be recovered. Clause 17 provides for the appointment of an auditor by the Government to all municipalities receiving a subsidy. This is probably a step in the right direction, and it may be followed up wherever Government money goes into any of the charities. An auditor may be appointed to see that the Government money is properly expended. I do not think this means that the Audit Department is going to conduct the audit; there would be a practical difficulty in that. It means only that private auditors will be appointed by the Governor. There would be a practical difficulty because in respect to the municipal finances the half-year closes on the 30th April, and the meeting is held early in May; while the year closes on the 31st October, and the annual meeting is held in November.

Hon. M. L. Moss: Government auditors are appointed in other places in Australia.

Hon. J. W LANGSFORD: Yes, in Victoria they have inspectors. But it will scarcely be necessary for all the auditing that will require to be done. In the bigger centres they have a continuous audit, and have merely to complete their audit at the end of the year. In most of these municipalities the audit is only conducted twice a year. There are 50 municipalities throughout the State and they want to get their accounts audited within three weeks after the closing of those accounts. Naturally that would present a practical difficulty unless the Government are going to employ a staff of outside auditors. I am quite in accord with the provisions of the clause. The Government should follow their money and see that it is spent in accordance with the provisions of the Municipal Act. I think it will have a very good tendency indeed, and a very good effect upon municipal councils. The only other clause to which I wish to refer is Clause 18 providing that the council may apply its ordinary revenue to subsidise any public or private hospital. This is probably in accord with the reign of economy the Government are bringing in, but I hardly think a provision of this kind comes under the Municipal Corporations Act, and I hope that the clause when reached will be struck out. I do not think there is any other clause to which I wish to refer just now, and I have much pleasure in supporting the second reading of the Bill.

Hon. W. KINGSMILL (Metropolitan-Suburban): I have a few remarks to make about this measure, and those principally are on Clause 15. I may say that I agree in the main with the remarks that have fallen from my colleague, Mr. Langsford, except that I think the remarks he made are almost too mild. I claim that the system of throwing the responsibility for the upkeep of bridges, which are after all main roads, or at any rate are now but parts of main roads, the system of throwing the responsibility for the upkeep upon those bodies supposed to use these main roads and adjoining the bridges is a reversion to a state of affairs which was formerly annoying in the extreme. In framing this clause the Government are heaping up for themselves a lot of trouble. In 1901, when I happened to be Minister for Works, I think I was the first Minister to introduce the system that the Government should attend to the upkeep and the keeping in a proper state of efficiency of main roads; and I started on the main road between Perth and Fremantle, intending later on to take in the main road from Perth to Guildford, and that from Perth to Cannington, and so on. I took

that step because I was weary of the complaints of the roads boards that they were being inadequately rewarded for looking after their sections of the roads. One board would come along and say, "We have only two and a half miles of the road, but we can assure you that our section takes a great deal more per mile to look after than our neighbours' four miles, and costs us more than their four miles." There were constant deputations and complaints and reiterations of complaints from these roads boards, and they were so annoying and so harassing that under my jurisdiction at least one road was taken away from the boards, and was kept up for some time by the Government. Now the step proposed by this Bill appears to be a reversion to the previous state of affairs, except that now the Government are going to pay nothing, but are going to say what other people are going to pay? Furthermore, I would like to know where the Government are going to stop. Take the instance of the causeway bridge. The Government may say that the municipalities which shall be responsible for the upkeep of that bridge shall be Perth and Victoria Park; while we may also anticipate infuriated deputations waiting upon all the Ministers available to state that they wish to throw the responsibility on to other shoulders, or that they wish to share the responsibility with other people; and I would like to know where and on what basis the Government are going to say where they will stop. Undoubtedly Cannington, that is Queen's Park, Guildford and South Perth, and, going in the other direction, Subiaco, Claremont, and Cottesloe, all these people—

The Colonial Secretary: Why should they not pay a share?

Hon. W. KINGSMILL: Exactly; but I say why should not the Government take the responsibility, and how are they going to adjust it, and would any Government expect to make an adjustment which would be satisfactory to all those people? As a matter of fact I maintain that all these bridges are State affairs and not the affairs of local authorities. If the Government find it necessary to further reduce the subsidies paid to these municipalities, let them do so. However, let there be a central authority looking after these bridges, and let the Government be that central authority, and let these bridges be maintained and repaired from Government funds. As I have already pointed out, there will be unending trouble and discontent. The Government will never make any adjustment that will give satisfaction. They know human nature as it is manifested and accentuated in local authorities. They know that as the discontent in the ordinary man is occasionally something hard to deal with, the discontent of six or eight ordinary men banded together as a local authority bears in direct ratio to that of one man, but is multiplied exceedingly. They know that the bitterness that will be engendered will be something to be contended with, and that the saving of the loss of time over the reception of deputations will be compensation for the little extra expenditure on the upkeep and repair of these bridges. I say, if the Government like to make a reduction in the subsidy to the municipalities they should do so. Again, Mr. Langsford, mentioned road districts. Although these bridges, both the Fremantle and the Causeway, serve road districts to just as great an extent as municipalities, it is not provided for in the Bill.

The Colonial Secretary: It should have been provided for.

Hon. W. KINGSMILL: Quite so. As a matter of fact I do not think any attempt should have been made to provide anything. I think the Government should not endeavour to throw the responsibility on the other people.

Member: Even if they should have to reduce the subsidies to the municipalities?

Hon. W. KINGSMILL: Yes. Once we start the system of adjusting this expenditure the Government will find it so widespread that it will become a matter of concern to the local bodies and of concern to the whole State. I am not altogether in accord with Mr. Langsford that the consideration of this Bill should be postponed until after the municipal conference has met. I think there will be quite enough trouble about the consideration of this measure without waiting

until that conference meets. Furthermore, there is this to be considered, that I have heard it rumoured that one of the principal demands of this conference will be that, seeing that the municipal subsidies have been so greatly reduced of late years, the Government as a quid pro quo should at least pay rates on any Government land and property situated within municipalities.

The Colonial Secretary: That will suit Perth all right.

Hon. W. KINGSMILL: Yes. I think it would suit most of the municipalities. As a matter of fact I suppose they would be quite willing to forego their subsidies for the consideration of getting rates on Government property.

Hon. J. W. Hackett: And rates on the railway lines?

Hon. W. KINGSMILL: Very likely. Furthermore, I think that altogether the Government will be placed in an awkward position on this question. It has always been used as an argument by any Government I have had acquaintance with that these subsidies are paid in lieu of rates. If we do not pay subsidies it will be an an argument that the Government should pay rates. Consequently, I think it would be better not to dilly-dally with this Bill. I do not say that we should proceed with any undignified haste, but we should put the Bill through before we are annoyed with requests from the municipal conference with which perhaps it would be difficult to comply. There are many parts of the Bill in which I understand there are good points. No doubt Clauses 16 and 17 are both very good. I think that jetties under the management of any municipal council should be deemed within the district of any such council. It is a wise provision, and I think it purely an omission that it has not been complied with before.

Hon. J. W. Langsford: Does that mean the upkeep too?

Hon. W. KINGSMILL: Certainly, where the jetties are used as jetties for pleasure purposes, for which this evidently is meant. Of course if the municipalities can extract any little help from the Government I have no doubt they will not be lacking in endeavours to do so. Hitherto, I think the Government have generally treated these people fairly kindly. With regard to Clause 17, I think it is a useful provision. As a matter of fact, I think similar provision already exists in our Roads Act. It is very fair that it should be extended to municipalities. As a matter of fact it would have the effect of saving those special audits of municipalities provided for under our Act, which sometimes take place, and which, I have no doubt, should disappear altogether when this becomes law. The suggestion thrown out by Mr. Langsford that this should apply to all bodies in receipt of Government aid and subsidy, is, I think, a very valuable one indeed. Speaking from a knowledge of at least some of the charities of Perth, I think those charities in receipt of Government subsidies would be well content if their accounts were audited by some Government official. With the exception of the points I have mentioned I have much pleasure in supporting the second reading of the Bill; but I must say I hope—

Members: What about Clause 18?

Hon. W. KINGSMILL: I have no great objection to offer to Clause 18. If the municipal council likes to do this, it is purely a permissive clause, I think it should be able to do so.

Members: To support private hospitals?

Hon. W. KINGSMILL: I say certainly in regard to public hospitals, but I do not think it would be wise in regard to private hospitals. I sincerely hope that when the Bill is in Committee Clause 15 will disappear. I do not know whether it is improper for me as Chairman of Committees to show my attitude in the matter, but unless you, Mr. President, check me, let me say at once that if my vote will help to throw out the clause, it will be supplied on the occasion.

The COLONIAL SECRETARY (in reply): I do not wish to reply at length, except to say that while I do not think it is necessary to fall in with the suggestion of some hon. members and wait until the municipal conference sits—I agree with Mr. Kingsmill that it would be better to get the measure through before the conference sits, because, at any rate, the

conference will have an opportunity of bringing forward any amendments in another place—at the same time there is no intention to rush the measure, and if members desire it the Committee stage can be taken to-morrow, or can be adjourned for a few days so that the municipal councils may have an opportunity, if they have not already done so, of criticising the Bill. Several members have criticised Clause 15 freely. I can see no great unfairness in the provision. Surely it is just as reasonable to ask the local bodies to maintain a bridge—more particularly when we have the provision in the latter part of the clause that the cost may be distributed over a number of local authorities—as to ask them to maintain a main road or street. Take a main road. It is not used solely by the people of the town; it is largely used by people all round the town.

Hon. M. L. Moss: There is no mandatory obligation to maintain a street, but there is here in this Bill a statutory obligation cast on them to maintain the bridge.

The COLONIAL SECRETARY: They must maintain the road in a certain state of repair or an action may lie. It is necessary that a mandatory power should be in the Bill to keep a bridge in order. Take the bridges that have been mentioned, and probably these are the only two. It is not an unfair thing to ask Perth, Victoria Park, Queen's Park, South Perth, and Belmont (in the last case "Roads Board" should have been included in the clause), that these bodies should contribute towards the Causeway, because they all benefit by it.

Hon. J. W. Hackett: Supposing the municipalities are unable or refuse to pay the money.

The COLONIAL SECRETARY: They have a rating power of eighteen-pence in the pound.

Hon. M. L. Moss: Suppose they put the plea forward that they cannot pay? Can you compel them?

The COLONIAL SECRETARY: They certainly have sufficient rating power, and an amendment probably will be moved in another place to give them increased rating power.

Hon. W. Kingsmill: It is good of the Government to enable them to do that.

The COLONIAL SECRETARY: It certainly was suggested here on numerous occasions that we should give increased rating power to Municipal Councils and cut off the subsidy.

Hon. J. W. Hackett: Who proposed that?

The COLONIAL SECRETARY: If the hon. member will look up *Hansard* of two years ago he will find that several members put forward that view there very prominently. Clause 18 contains a provision which has been inserted principally at the request of the country municipalities. I have already stated that certain municipalities were desirous of taking over hospitals or constituting themselves hospital boards, and they complained that it was necessary under the existing law to appoint another body, whereas had they the power given them they need not do this. It is at their wish that the clause has been inserted. It is purely a permissive clause, whether they contribute to a hospital or not. With regard to subsidising private hospitals, at first it seems rather a big proposition, and the provision was inserted because certain municipalities have not a hospital at the present time and the question of constructing a hospital is beyond the means of many. In some cases there are general hospitals closely situated, and it is not necessary that another should be built, but the desire is that these people should have a casualty ward or should subsidise a bed in one of the private hospitals. The Bill provides for this being done. If this power were not given it would force them to build a small hospital or build a casualty ward and maintain it.

Hon. J. W. Langsford: Why cannot the Government do that?

The COLONIAL SECRETARY: The Government these times cannot do everything. The clause in question will be availed of only in the country districts where there are no general hospitals. At a place like Beverley for instance there is no hospital, and they are anxious to have a casualty ward. They may instead subsidise a bed and thus avoid

the necessity of building a hospital or a casualty ward.

Question put and passed.

Bill read a second time.

BILL - HEALTH.

In Committee.

Resumed from 16th September.

Clause 205 Infectious diseases may be declared dangerous:

Hon. V. HAMERSLEY: This clause was very drastic. It had been said that it was the intention of the Minister to make some provision with regard to dangerous diseases, which it was feared might be included in these clauses, which undoubtedly gave power to the Minister at any time to over-ride the opinion of the Central Board of Health, or the Central Board of Health themselves might be of the opinion that it was necessary to declare venereal diseases infectious diseases under this clause. It would be a crying shame if we were to inflict upon the community provisions that had been found to be unworkable in Great Britain, and also in various British possessions.

The Colonial Secretary: There was nothing about dangerous diseases in the Bill.

Hon. V. HAMERSLEY: There might be nothing in the Bill, but as was done in America it might be brought in under a cloak, and these provisions seemed to be the very cloak by which what he was objecting to could be brought in. Statistics showed that very serious inquiry had been made into the subject, and it undoubtedly had been proved to the satisfaction of Commissioners who had investigated the matter that no good had so far been served by their inclusion. If it was intended to include dangerous diseases, power would certainly be given to those holding extreme views to at any time declare by *Gazette* notice that these diseases should be incorporated within the Act. It would be perpetrating a wrong on the community to do such a thing.

Hon. F. CONNOR: While in sympathy with the arguments of the hon. member, some power was necessary for the Government in connection with diseases which were rampant, and which were not classed at present as infectious. One might take the old idea of the people of Scotland in connection with skin diseases where they had the belief that if they were communicated by a child to another, the former would be cured. He was aware that in this State that custom had been resorted to: therefore, it was necessary for that reason alone that the Government should have power to declare certain diseases as infectious. Provision should be made to guard against what had been suggested as being probable by Mr. Hamersley. Members should not be mealy-mouthed about a subject of this kind, and should say what they had to say in plain language. He was prepared to accept the undertaking of the Colonial Secretary that a certain course would be followed. It would be better if the Colonial Secretary made it quite clear before the clause was finally passed.

The COLONIAL SECRETARY: There was nothing in the Bill that was not already in existing legislation, and which had been in force for the past eleven years. Greater powers were contained in all the Acts relating to public health in the other States than were contained in this Bill. What he had taken exception to the other evening was that a member stated that these provisions had been brought in by a sidewind, and it was insinuated that he had misled the House as to the purpose of these provisions. If the hon. member did not understand the provisions of the Bill, why did he not state so rather than say that the provisions had been brought in by a sidewind? He had no intention of bringing in any provision which he did not understand. He might not agree with every word in a Bill, but he always fully understood what he was introducing. It was a sufficient answer to the hon. member to say that there was no power in the Bill which was not in the existing legislation, and which had been in force for the last eleven years. He intended to make the matter clear by adding a proviso which he thought would better come in at the

end of the division, and it would apply to the disease which had been referred to It would not be possible to cover the disease mentioned by the Bill. The Queensland Act dealing with this question was very different from the Health Acts of the other States, and contained much wider provisions.

Hon. E. M. CLARKE: Could the Minister give an assurance that he would insert certain saving words exempting certain contagious diseases? If the Minister did that there would be no objection to this clause.

Hon. R. F. SHOLL would be sorry indeed to see an amendment to the clause. There was a certain sort of maudlin sentiment about people looking for something, trying to see if they could not construe the clause so as to embrace some infectious disease that it was not intended the Bill should embrace. A large amount of money had been expended in the Northern portion of this State to isolate the aborigines, and it would be better for future generations if we had a Contagious Diseases Act passed in this State. And not only here, but throughout the world. He had no sympathy with this maudlin sentiment. We were not dealing fairly with future generations. If the Government brought in a Contagious Diseases Act he would vote for it, because it was our duty to protect future generations.

Hon. V. HAMERSLEY: There had been no intention to be discourteous to the Minister when a few evenings ago he mentioned that he considered this clause was being introduced by a sidewind without members having received full information. He intended the remarks to refer to the fact that the second reading of the measure was postponed with the object of giving members an opportunity of having the Bill before them before the second reading debate took place. He (Mr. Hamersley) went away into the country on a distinct promise that members would have this Bill posted to them, and that there would be an opportunity given of going through the Bill carefully before it was considered. The following week when the House met he was not present, because up to that time the Bill had not been posted to him, and he did not think it had been posted to other members, and from the assurance given by the Colonial Secretary he thought the Bill would not be dealt with. Last week when he came to the House he found that the Minister had already explained the Bill, and that it was receiving consideration in Committee. It was because he had not had an opportunity of looking into the question and noting that there were dangerous clauses that he took exception. Fathers of families did not recognise the danger that was lying dormant behind the clause. He would like to read an extract from an article written by a doctor of the United States referring to this matter. This doctor said that it was a matter of very great difficulty, in regard to the practical operation of a licensing law, to frame such a measure.

The CHAIRMAN: I fail to see the connection between this extract and the clause.

The Hon. V. HAMERSLEY: The licensing of infectious diseases.

The CHAIRMAN: There was nothing about licensing in the clause.

Hon. V. HAMERSLEY: The clause dealt with infectious diseases. This doctor particularly laid stress on the fact that if you scared the public mind and the public knew and called the Bill a licensing law, the attention of the public was drawn to it. He went on to say that great judgment and care would be necessary in the selection of a proper title. If this be offensive, or too conspicuous, it would call forth opposition.

The CHAIRMAN: The observations of the hon. member were out of order, they were not relevant to the clause. The observations might have been in order on the second reading of the measure but not on the clause.

The COLONIAL SECRETARY moved an amendment—

That the following words be added at the end of the clause: "Provided that venereal disease shall not be an infectious disease within the meaning of this Division."

Hon. F. CONNOR: In carrying out the provisions of the Bill, and particularly of the clause, would the inspec-

tors be the judges of the disease? Would this be left to the board or would the doctor be the inspector?

The COLONIAL SECRETARY: It would be practically left to the opinion of the Principal Medical Officer as to what was an infectious disease. The layman inspector's report would not be sufficient. The procedure would be the same as at the present time.

Amendment put and passed; the clause as amended agreed to.

Clause 206—By-laws to prevent the spread of infectious diseases:

Hon. F. CONNOR: Subclause 9 said, "For the destruction of infected animals or of animals suspected or liable to be infected or to convey infection." That was altogether too much power to put into the hands of anyone. Under the subclause power was given to an individual to go, for instance, to any of the dairies in or around Perth, and have the whole of the herds destroyed. It was all very well to order the destruction of infected animals, but it was absurd to suggest that those should be destroyed which were liable to be infected. Any animal was liable to be infected. He moved an amendment—

That in lines 1 and 2 of Subclause 9 the words "or of animals suspected or liable to be infected or to convey infection," be struck out.

The COLONIAL SECRETARY: The power was a wide one, and was necessary, The clause was intended specially to apply to the plague sections. In such cases it was very necessary that the powers should be wide, and it was right that the central board should have power to destroy animals liable to be affected by such diseases. The member had taken an extreme case when he referred to cows. At the present time that disease would not be described as an infectious one. When a case of tuberculosis was found it was not considered necessary to destroy all the cows in the herd. The cows that had been in contact with an infected one would be quarantined as had been done in the past. As soon as it was discovered that a herd was affected the tuberculin test would be applied, and if an animal were found to respond to the test, then it would either be ordered to be destroyed or quarantined.

Hon. J. W. Hackett: Are poultry animals under the Bill?

The COLONIAL SECRETARY: Yes.

Hon. C. SOMMERS: The provision was altogether too drastic and such power should not be placed in the hands of a local authority.

Hon. M. L. MOSS: Under the Stock Diseases Act of 1895 the Government and inspectors were given all the powers sought to be obtained under the subclause. He could give some very peculiar experiences of the way in which that Act had been administered in the past two years in the State. Largely from ignorance the result of the administration had been to cost a Perth institution many thousands of pounds. However, he had no time to go into the details of that case now. It was quite right to give the power sought for so far as infected animals were concerned, but not as to animals suspected or liable to be infected. That was another matter. All animals were liable to infection, and might convey infection. As to animals suspected there was ample opportunity under the Stock Diseases Act to quarantine all such. It might be that an inspector would think it the safest plan to order the whole herd to be destroyed and he could thus cause an enormous expense which really was quite unnecessary.

Hon. W. PATRICK: There was something to be said in favour of the subclause. If one animal in a herd were infected the rest would certainly be liable to catch the infection. He remembered many years ago in the old country when rinderpest broke out and the law was so strict that if one animal in the herd of say 100 was infected all the rest were killed. Under this Bill the owner would get compensation for animals that were killed, therefore the local body would not be too eager to exercise the provision.

Hon. R. W. PENNEFATHER: The power granted was too wide. He had before his mind a personal experience of some years ago when he had a cow in a herd which was afflicted with pleuro. The inspector took out three or four animals, set them apart and quarantined

the rest. One of the three or four developed pleuro, but the rest escaped. If the inspector, to save himself the trouble of quarantining a number of animals or of going a long distance to a station, liked he might order the whole of a herd to be destroyed. This was too great a power.

Amendment put and passed ; the clause as amended agreed to.

Clause 207—agreed to.

Clause 208—Special powers when authorised by Minister :

Hon. F. CONNOR moved an amendment—

That in lines 1 and 2 of Subclause 4 the words "or suspected or liable to be infected, or to convey infection" be struck out.

This was consequential upon the previous amendment carried.

Amendment passed.

Hon. M. L. MOSS : In Subclause 5 it was provided that the central board "may require persons to report themselves and submit themselves for medical examination at specified times and places." That Clause was taken from the New Zealand Act of which he knew the history.

The Colonial Secretary : It is Section 210 of the present Act.

Hon. M. L. MOSS : When the first plague outbreak occurred in Australia and there was none in New Zealand, the authorities in the latter country were careful to inspect people coming from Australia. The clause was instituted there to make people going from Australia to New Zealand report themselves for examination. There was danger that in the subclause they would be aiming against Clause 205. Under that clause it was provided that a venereal disease should not be declared a dangerous infectious disease, but by Clause 208 the central board might require persons suffering from a dangerous infectious disease to report themselves and submit to examination. He moved—

That the clause be postponed.

The Colonial Secretary : The member would probably withdraw his motion if the clause were read throughout.

Hon. M. L. MOSS asked leave to withdraw the motion.

Motion by leave withdrawn.

The COLONIAL SECRETARY : As would be seen, the central board might, if authorised by the Minister, from time to time, exercise and delegate to its officers special powers with respect to any district.

Hon. M. L. Moss : Oh, yes ! I see I am wrong ; I admit I am wrong.

The COLONIAL SECRETARY : As for Subsection 5 it was in force at the present time. It was a necessary provision. He himself had come under it some time ago when, on returning from the Eastern States at a juncture when plague was in evidence in Adelaide, he had to report himself to the authorities each day for some time afterwards.

Hon. M. L. MOSS : Subclause 16 provided that the board might require the effectual cleansing of streets and public ways and places by those entrusted with the care and management thereof or by the owners and occupiers of houses and premises adjoining thereof. Was it intended that the central board should have power to compel people to cleanse the streets ?

The COLONIAL SECRETARY : No ; there was no such intention. It simply meant that in the event of a right-of-way at the rear of a house becoming encumbered with accumulated rubbish the owners or occupiers of houses adjoining on that right-of-way might be compelled to clean it up and keep it clean. Filth was not likely to accumulate in the streets to the detriment of public health, because the authorities would look to that. Still such a state of affairs might arise in a right-of-way, hence the need for the power given in the clause.

Hon. M. L. MOSS : The explanation was scarcely satisfactory. The subclause referred to streets and public ways, and places. Why should owners or occupiers of houses abutting on those streets be called upon to cleanse the streets ?

The COLONIAL SECRETARY : You may strike out the words if you like.

Hon. M. L. MOSS moved—

That the words "or by the owners and occupiers of houses and premises adjoining thereto" be struck out.

Amendment passed.

Hon. M. L. MOSS: Subclause 18 declared that the board might exercise any other power conferred by the Governor. Would the Minister explain that?

The COLONIAL SECRETARY: Power must necessarily be given to deal with outbreaks of infectious diseases, and while, so to speak, everything that could be thought of had been inserted in the measure it was necessary to make provision for unforeseen circumstances, and to give the board this power. It was extremely unlikely that such power would be abused.

Hon. M. L. MOSS: Apparently the whole of the clause had been taken from the New Zealand Act. In the New Zealand Act, however, special powers would appear to have been conferred upon the Governor-in-Council, and this rendered such subclause apposite. However, he could see no reason for it in the Bill. It was a very wide power indeed.

Hon. J. W. Hackett: What was the meaning of the words "conferred by"?

The COLONIAL SECRETARY: They related to any powers given under the Bill. It was merely repeating what was already contained in the Bill.

Clause as amended agreed to.

Clauses 209 to 214—agreed to.

Clause 215—Compensation for building, animal, or thing destroyed:

Hon. F. CONNOR: Subclause 6, dealing with all questions and disputes relating to claims for compensation, laid it down that such disputes should be heard and determined in the prescribed manner by a magistrate, whose decision should be final. It seemed to him the last words, taking away as they did the power of appeal, were altogether too drastic. He moved—

That the words "whose decison shall be final" be struck out.

Amendment passed.

Hon. M. L. MOSS: The hon. member was not much further forward, because provision would now have to be made for the appeal desired by the hon. member. It would be better if the hon. member moved to postpone the clause and requested the Government to draft a new subclause giving the right to appeal.

Hon. F. CONNOR moved—

That the clause as amended be postponed.

Motion passed, the clause postponed.

Clauses 216 to 230—agreed to.

Progress reported.

House adjourned at 9·30 p.m.

Legislative Assembly,

Tuesday, 21st September, 1909.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

PAPER PRESENTED.

By the Minister for Works: Special By-laws regulating the lighting of vehicles passed by the roads board of Bulong.

QUESTION—WATER SUPPLY AND SEWERAGE ADMINISTRATION, COST.

Mr. HORAN asked the Minister for Works: 1, What is the annual administrative cost of the Goldfields Water Scheme? 2, What will be the annual administrative cost of the Metropolitan