that we must go on moving with the times. We cannot stop. We have commenced to construct our public works, and have been successful; and is it to be said that, after going so far, we are to stop and not go on? I see no reason why we should not go on. I think I have shown that the colony is in a far better position than when we undertook the management of our affairs. We are in a far better position to borrow this money than we were in when we borrowed the £1,336,000 in 1891, and our Revenue is rapidly increasing. I have confidence in the colony myself, and I have confidence in the good sense of the community, and in the good sense and patriotism of members of this House. Many of them have "won their spurs" in the service of this colony, and I believe they will be equal to the responsibility that is cast upon them. I am sure we shall do our best to promote the interests of the old colony of Western Australia, which we all love so well, and whose interests we will strive to protect either in adversity or in prosperity.

MR. RANDELL: I rise only to move the adjournment of the debate. The thanks of the House are due to the hon. the Premier for the earnest, persuasive, and energetic way in which he has moved the second reading of this Bill. I hope the result of the deliberations of this House will be such as will promote the best interests of the colony at large. I move that the debate be adjourned until this day week (Monday, August 27).

Question put and passed, and the debate adjourned accordingly.

ADJOURNMENT.

The House adjourned at forty-three minutes past 9 p.m.

Legislative Assembly,

Tuesday, 21st August, 1894.

Employers' Liability Bill: committee's report—Fencing Bill: in committee—Adjournment.

THE SPEAKER took the chair at 2·30 p.m.

PRAYERS.

EMPLOYERS' LIABILITY BILL.

On the Order of the Day for the consideration of the committee's report,

THE ATTORNEY GENERAL (Hon. S. Burt) said it would be recollected that in committee the hon. member for Nannine moved an amendment to strike out the words "in case of death" in Clause 6 (now Clause 10), but, upon an assurance from him that he would look into the matter, the hon. member consented to withdraw his amendment, the object of which was not to limit the time for commencing an action under the Bill to a period of six weeks should the Court be of opinion that there was reasonable excuse. The clause as printed only made this proviso in case of the death of the person who met with an accident, but the amendment proposed that the same condition should apply to all accidents. He was now prepared to accept that principle so long as an employer was not prejudiced by the delay. He, therefore, had to move that the words "in case of death" in the proviso be struck out, and the following words be added at the end of the clause, "and that the employer has not been prejudiced thereby."

MR. ILLINGWORTH said he was prepared to accept this amendment.

Question put and passed.

FENCING BILL.

IN COMMITTEE.

Clause 1.—Repeal of Acts:

Put and passed.

Clause 2—Interpretation of terms:

MR. LEAKE said that, at the request of the hon. member for East Perth (who was absent), he had to move that the definition of the word "Fence," as given in the Bill, be struck out. That definition was as follows: "'Fence' shall mean "any substantial fence reasonably deemed

"sufficient to resist the trespass of great "and small stock, including sheep, but "not including pigs and goats, and shall "not be deemed to include any fence "which shall be wholly or partially con- "structed of bushes or brushwood." In lieu of this definition he proposed to substitute the following: "'Fence' or "'Dividing Fence' shall mean any fence "separating the lands of adjoining owners, "and—(1.) In case of town or suburban "lands, made of close sawn timber pal- "ings at least 3ft. 6in. high; or (2.) In "case of country lands, reasonably suffi- "cient to resist the trespass of great and "small stock, including sheep, but not "including pigs or goats, and not either "wholly or partly made of brushes or "brushwood, or of the fence known as "'Harper's Fence.'" He understood that the reason why the hon. member wished to substitute this definition for the definition in the Bill, was to draw a distinction between a fence in town and in the suburbs, and a fence in the country.

MR. R. F. SHOLL said he should certainly object to the first part of the amendment. He saw no necessity for insisting upon close sawn timber palings, even in a town, for a dividing fence. Split palings were generally used, and answered every purpose.

THE ATTORNEY GENERAL (Hon. S. Burt) said this new definition would alter the effect of the Act very considerably. It would permeate the whole Bill, and many points would arise from it. If this passed, no one could recover half the value of any fence in town or near town, from an adjoining owner, unless the fence was of close sawn timber. He did not think the committee would agree to that.

MR. RANDELL said he would certainly oppose the first portion of the amendment. It was wholly unnecessary to require people, even in town, to erect close sawn timber fences for a dividing fence. A split fence, or even a good log fence, properly made, was a very effective fence, and would answer the purpose just as well as a close sawn timber fence.

MR. WOOD hoped the committee would not accept the proposed definition of what should constitute a dividing fence in town to entitle the owner to recover part value of it. It would create a good deal of difficulty, and inflict much hardship. The present dividing fences in Perth were, for the most part, made of split timber, and answered every purpose; and he saw no necessity whatever of putting people to this extra expense.

Amendment put and negatived.

MR. PIESSE moved, as an amendment in the same clause, that the following words be added to the description of fences excluded from the operation of the Bill: "or logs, or which is wholly or "partly formed of the fence known as "'Harper's' fence." He did not think it would be fair to compel adjoining owners to pay half the cost of this description of fence, which was a constant source of danger from bush fires.

MR. LOTON said he took an entirely opposite view of the usefulness of a log fence or a "Harper's" fence from the hon. member for the Williams. A "Harper's" fence made of jam timber, and properly constructed, was one of the best fences you could have around your homestead. No doubt there was an objection to it on account of its being likely to take fire at times, but, if it was kept cleared on either side, as the Bill contemplated, that danger was done away with.

MR. CLARKSON quite agreed with the last speaker. In his opinion, a "Harper" fence was *the* best fence in country districts; in fact, it was the only kind of fence that resisted pigs and goats: and to exclude it from the operation of this Bill would be a serious injustice.

MR. PIESSE did not deny that it was one of the best fences, if properly made, and kept clear; but, in his own district, there had been a good deal of trouble about this class of fence. He thought it was beyond the scope of this Bill to compel people to pay half the cost of such fences. For one good fence of this description you would come across twenty bad ones, which were a constant source of danger when fires were about.

MR. THROSSELL said in his experience he had found this class of fence one of the most useful fences you could have in country districts. It helped to clear the land by utilising the waste timber in its construction, and in his district, where it was called the peace-maker's fence, it was in great favour, as it resisted trespass by any kind of stock, and therefore kept neighbours on good terms. Its

omission from the Bill would be a blot upon it.

THE PREMIER (Hon. Sir J. Forrest) said they must remember that this Bill would apply to all parts of the colony. It was all very well for members who lived in raspberry jam country to speak of the goodness of fences made from that timber. No doubt, when there was proper timber available and it was properly constructed, this class of fence was good enough. He had seen some very bad ones and some very good ones, but he was afraid the bad ones predominated. They must remember that there were many of these old fences about the country; and, if this Bill was to be made retrospective, he did not think people would care to pay for half the value of some of these dilapidated old fences, which, as had been already said, were often a source of danger rather than protection?

MR. LOTON thought they might as well exclude a post-and-rail fence from the operation of the Bill, as a "Harper" fence, which, properly constructed, was equally as good, lasted as long, and was just as much entitled to consideration as any other class of fence. Where a fence like this answered every purpose, why should a man who erected it not be equally entitled to claim half its value from an adjoining owner, as the man who put up any other kind of fence? Personally, he did not care whether the words were added to the clause or not, but he saw no reason why this description of fence should be excluded.

Amendment put and negatived.

MR. PIESSE moved to strike out the interpretation of "owner," and to insert the following interpretation in lieu thereof: "'Owner' includes any person entitled to a freehold estate or interest in the land, and any joint tenant or tenant in common having a freehold estate or interest therein." He thought this interpretation would simplify matters very much in construing the Act.

MR. LEAKE hoped the committee would not accept the amendment. If this became law, the crop of litigation that would arise from such an indefinite interpretation might be a grand thing for that noble profession the Law, but it certainly would not be an improvement upon the definition in the Bill. The hon. member could scarcely have considered the full meaning of his interpretation when he talked about protecting tenants in common under this Bill. Tenants in common were a gregarious class, and there would be no end of difficulty in applying the provisions of a Fencing Bill such as this to them. The definition of the term "owner" in the Bill was the ordinary interpretation given to the word, and he thought the draftsman had enlarged its meaning quite sufficiently.

Amendment put and negatived.

Clause agreed to.

Clause 3—Short title:

Put and passed.

Clause 4—"It shall be lawful for the "owner of any land who shall, before the "passing of this Act, have erected a fence "dividing such land from land adjoining "thereto, to demand and recover of and "from the owner or occupier of such "adjoining land half the value of such "dividing fence; and, in the event of the "occupier paying the same, he may "demand and recover such half-value "from the owner. Provided further, "that, in the case of country land, the "amount recoverable from the owners or "occupiers of such adjoining land as "aforesaid shall, unless otherwise agreed "upon, be payable by instalments, as "follows, *i.e.*:—

"If such amount shall not exceed "Twenty-five pounds, within six "months after adjudication.

"If such amount shall exceed Twenty-"five pounds and shall not exceed "Fifty pounds, within one year "after adjudication.

"If such amount shall exceed Fifty "pounds, and shall not exceed "One hundred pounds, within two "years after adjudication.

"If such amount shall exceed One "hundred pounds, and shall not "exceed One hundred and fifty "pounds, within three years after "adjudication.

"If such amount shall exceed One "hundred and fifty pounds, within "four years after adjudication."

MR. ILLINGWORTH moved to strike out the words "before the passing of this Act have erected" (at the beginning of this clause) for the purpose of inserting the words "after the passing of this Act erect," in lieu thereof. His desire was to

alter the principle of the Bill as to the question of making it retrospective. On the second reading he indicated some of the difficulties and hardship likely to arise under the Bill if they made it retrospective in its operations. Whatever reasons might exist for making this legislation, as to compelling adjoining owners to share the cost of a fence, the law of the future, he failed to see the justice of making it retrospective. They had tried it in Victoria, and, as a consequence, they had a whole crop of special provisions and stipulations under which people were able to contract themselves out of the Act. A man might have bought 100 acres of land years ago, for perhaps £20, and he might have sold portions of it, and the purchasers may have fenced three parts of the ground, and now, after all these years, the original owner might be called upon to pay more for these fences of his neighbours than he had paid for the whole of the land. He thought, without labouring the point, members would see that this retrospective principle was a dangerous one, and open to serious objections. It would work both hardship and injustice in the case of many people both in the towns and in the country. He was aware that this amendment struck at the fundamental principle of the Bill, but he proposed at this stage to test the feeling of the House on the subject.

THE ATTORNEY GENERAL (Hon. S. Burt) said undoubtedly this was a very important feature of the Bill, its retrospective operation, but he was a strong advocate himself of these retrospective provisions. He must say he failed to see the force of the hon. member's argument in support of his amendment; the suppositious case referred to by the hon. member did not apply at all, so far as he could understand the hon. member's meaning. If a man purchased a piece of land years ago for a small sum, and afterwards sold it to other people, those people could not come upon the original owner for any part of the fences they might put up.

MR. ILLINGWORTH said the Attorney General had misunderstood him. The original owner might not have parted with the whole of the land; he might have retained a small portion of it, and, in that case, he would be called upon to pay his share of his neighbour's surrounding fences, and pay more for those fences than he had paid for the whole of the land years ago.

THE ATTORNEY GENERAL (Hon. S. Burt): And very properly too. If that man subdivided his land and sold it he would probably realise a much higher price for the land than he gave for it; and if the owners of these sub-divisions had gone to the expense of fencing them, and the original owner still retained a portion of the land, and had done nothing towards fencing or improving it, why should he not be called upon to share the cost of the fences put up by his neighbours if they adjoined his own piece of land? That was the gist of the whole Bill. Why should this land-jobber, who had made a lot of profit out of the transaction, be excluded from the operation of the Bill? If he wanted to sell the remaining portion of the land, they might depend upon it he would ask more for it, because it was three-parts surrounded with a fence. He admitted there was a good deal to be said on both sides as regards this retrospective principle, but he thought the weight of argument was in favour of the principle, and he trusted the committee would affirm it by a large majority. If not, he was afraid the Bill would not be of much use. If an owner put up a fence to-morrow he would be able to claim half the cost of it from the adjoining owner, but if he put it up yesterday he could claim nothing. That would be the effect of the hon. member's amendment; and he failed to see the justice of it.

MR. ILLINGWORTH said the Attorney General seemed to think that the Bill only applied to town or suburban lands, whereas it applied to every description of land, and this retrospective principle, he repeated, must necessarily work great hardship in many cases. Take the case of the land grant companies, who had subdivided their lands, and sold hundreds of blocks with no idea that they would ever be called upon to pay half the cost of the fencing of those blocks. The same with many private owners. Why should they impose conditions upon these people that were never contemplated when they parted with portions of their land years ago, and compel them now to pay half the cost of fences put up years ago, which

were of no use to them? As to carrying the principle through the House, no doubt the Government would be able to carry it; they could carry any proposition they chose to bring forward. But that was not the point. He hoped it was not a question of Might in that House, but of Right and Reason.

THE PREMIER (Hon. Sir J. Forrest) said, as to the case of land grant companies, the Government proposed to introduce a clause excluding these companies from the operation of the Bill, as they stood in a different position from the holders of private estates. These companies had acquired their land on entirely different conditions from the ordinary purchasers of land.

MR. MONGER said that to his mind this was the only clause in the Bill worth considering, and, if they adopted the amendment, and did away with the retrospective principle of the Bill, they might as well be without the Bill; it would be shorn of its advantages. They had heard a great deal, from time to time, about bursting up big estates and getting at absentee proprietors; in his opinion this clause would do more towards attaining these objects than any clause they could possibly introduce. He regretted to hear that the Government intended to introduce a special clause exempting the land companies from the operation of the Bill. So far, this colony had received very little benefit from these companies, and he would protest, so far as he was able, against any special privileges being given to these syndicates under this Bill.

MR. ILLINGWORTH referred to the case of a selector with a mile of adjoining fence on one side and half a mile on another side; that selector, before he would be able to get a single thing off his land, would be called upon to pay half the cost of that mile and a half of fencing, and that man would simply be crushed just as he was starting his operations, though these fences might be of little or no use to him. They heard a great deal about settling people on the land, and he was as anxious to see it as the Ministry themselves, who professed to be very anxious about encouraging settlement. But it appeared to him that, if they adopted this Bill as it stood, they would be crushing settlement instead of encouraging it. It was simply a Bill to protect the interests of large owners, who already had the good fortune of having fenced their lands. It had not consideration at all for new settlers and small owners struggling to get on against other adverse circumstances.

MR. R. F. SHOLL said if it went to a division he intended to support the amendment. He thought that to make this Bill retrospective would create considerable hardship. The fencing law at present was not a hardship, because you could not compel a man to pay half the cost of another man's fence until he had made use of it. But under this Bill he would have to pay whether he made use of the fence or not. A grazier might have several small blocks taken out of his run, and the purchasers of these small blocks might fence them, and although this fence would be of no earthly use to the squatter he would have to pay half the cost. The Bill would be, no doubt, a great advantage to large freeholders who had already erected fences, and who, when they did so, never expected to be in a position to recover half the value of those fences from other people, until, at any rate, those people made some use of them. Retrospective legislation, he thought, was a class of legislation that ought to be avoided.

MR. LEAKE said he intended to oppose this clause with all the force at his command, and he hoped other members would support him on both sides of the House. He said on both sides of the House, because this was not a Government measure in the sense that it involved the downfall of the Ministry should it not be carried. It was most unusual to introduce into any measure a retrospective enactment. It was not sufficient for the Government to bring this forward and say it had been before the Legislature on a former occasion; that House was not going to look to the old Legislative Council for precedents. They must have some stronger argument than that. This clause, as it stood, practically meant confiscation to many small holders of land. [AN HON. MEMBER: A good job, too.] "A good job, too!" That was from the point of view of the large landowner, who had already fenced his land, but who did nothing

further to improve or to utilise it. It was against such people that we wanted to protect the country. The principle was a right one, to make a man pay his share for a fence if he made use of it; but why make a man pay for what he did not want? If you insisted upon this clause in its present form, it would, as he had already said, mean confiscation, and why? For this reason: the cost of the fence to a small landowner might be more than he could afford, and the adjoining owner would obtain judgment against him, and that judgment would attach to the land as an encumbrance. There was plenty of land in this colony that was not worth fencing. Some of them remembered that big block of 250,000 acres down south known as Peel's block, which wouldn't keep a bandicoot. The hon. member for Whitby Falls knew the land; and no doubt this Bill would suit the hon. member for the De Grey, who had run his fence all round his own holding, and who, if this clause became law, would be able to come upon the owners of this big block for half the cost of his fences, though the unfenced portion was not worth improving. Those who purchased this land did so when the law gave them the option of putting up a fence or not, just as they liked; but now it was proposed to make them pay half the cost of other people's fences, although those fences were of no earthly use to them. It was said that the Government intended to exempt the land companies from the operation of the Bill. Surely, if the principle applied to private owners it applied with greater force to these large companies, because they could afford to pay, whereas small holders could not. The Government were prepared to protect the land companies, but not to protect the small man. That was unfair and unjust. Of course they were in this trouble with the land companies: they had given these companies special concessions, and, if they were to impose such conditions as these upon the companies, there would be such a howl that the Government could never stand it; therefore, they must impose them upon other people, who must quietly grin and bear the imposition. If the enactment were limited in its application to town and suburban lands, he did not think it would be so objectionable; because town and suburban lands had a very different value from country lands, and the amount of fencing in the case of town or suburban lots would be necessarily small, so that the Bill would not press so heavily. But when they came to have to pay for miles of fencing it became a very serious item, especially when the fence was of no value to a man whatever. Talk about bursting up large estates; it was the small estates that this enactment would burst up. The small man would be crushed under it; he would be crushed, not with the cost of his own fencing, but of another man's fencing. Was that likely to advance the settlement of the land, of which they heard so much from the present Ministry? Nothing of the kind. Of course they were all aware of the legal fiction that every man was supposed to know the law. But, supposing this Bill became law, the majority of men who came here now, if they bought a hundred acres of land in the bush fenced on a couple of sides, it would never strike them to inquire what the law was as to fencing, and they would never assume that when they were buying that small block of land they would also have to pay half the cost of another man's fencing,—fencing which at the present moment would be of no use to them. In this Bill they were simply laying a trap for the *bonâ fide* and innocent purchaser, and for the *bonâ fide* settler. Not only that; it would also attack the squatter on a very sore point. He might have a ring fence erected by selectors around his water supply, and, not only would he be shut out from his water, but he would also have to pay half the cost of the fence which kept him out. He would call that adding insult to injury. If you could compel a man to fence, do it; but do not compel a man to pay for what he did not want. The law, as it stood now, was fair and reasonable; that was, to make a man pay half the cost if he made use of a fence. But this Bill compelled him to pay whether he made use of it or not. If they passed such an enactment as this, it would be a blot upon their statute book. He called it a deliberate and disgraceful act of possible confiscation.

THE ATTORNEY GENERAL (Hon. S. Burt) said he wished to correct the hon. member who had just sat down,

who said that the Act in force did not compel a joint owner to share in the cost of a fence unless he used it. That was not so. The present law as to town and suburban land was this: any party desiring to erect a boundary fence might give notice to the adjoining owner, and each party might agree to erect one-half; and, if one of the parties made default, within three months the other party might complete the fence and charge the adjoining owner with the expense. Even if the adjoining land was Crown land the occupier could be compelled to pay half the value of a common fence. The existing law also made the provisions of the Act retrospective. Exactly the same principle as they found in this Bill already applied to town and suburban lands, and it had been the law of the colony ever since the 4th of William IV., long before our time. They simply proposed in this Bill to extend this same principle to country lands. A similar law existed in all the other colonies, and people coming here from those colonies, so far from being imposed upon, would naturally expect to find the same law here; and the first question they would ask, if they wanted to take up a piece of land that was partly fenced, was whether the fence had been already paid for. He contended there was no hardship whatever in making the principle retrospective as regards country lands, in the same way as it was already with town and suburban lands. The land would be of no value to any man who wanted to settle on it, until it was fenced. All our land regulations recognised that. Fencing was a *sine quâ non* of our present land legislation. As to being a hardship upon the poor selector, he would not have to pay for the fence at once. The clause provided against that. In no case could he be made to pay within less than six months, and in some cases, if the sum was large, he had four years to pay it in. That was what the Bill proposed, and, if members thought that was not liberal enough, they could extend the time. His ground was this: land was of no use in the country unless it was fenced. As a rule, people who did not fence were simply waiting for somebody to come along and put up a fence for them, so that they might get it at half the cost. As to the land grant companies, they were altogether different kind of proprietors. They did not purchase their land like private people did, for their own use. They built railways for us, and we paid them in land, because we did not care, or could not afford at the time, to build the railways ourselves; and these companies knew the land would be of no value to them until they sold it to other people. They did not acquire the land for the purpose of cultivating it themselves, like private purchasers, whom we insisted upon improving their land. He thought it would be unfair to these companies, having given them the land, to compel them now to defray half the cost of every dividing fence put up by those to whom they sold lands. Therefore it was proposed to exempt them from contributing.

MR. PATERSON said reference had been made by one hon. member (Mr. Leake) to the hon. member for the De Grey, whom, he said, this Bill would suit very well, as he had his holding fenced in. He might say, as that hon. member was absent, that, so far as the hon. member for the De Grey was concerned, this Bill would not benefit him at all, as he had already satisfied himself with regard to his dividing fences. His own experience had been this: he had erected a great many miles of fencing, and got nothing for it, although since this fencing had been erected, the owners of adjoining land wanted to raise their rents at once.

MR. CLARKSON did not think there was much in the argument of the hon. member for Albany. He was sure, after what had fallen from the hon. member, he would never think of availing himself of the provisions of this Bill, and make his neighbours contribute anything towards the cost of his fences. For his own part, he could not see what use any piece of land was to anyone unless it was fenced; and it seemed to him that this Bill, instead of being a hardship, would be of considerable advantage to the small holder as he would have his fence at half price, and also have a long time to pay for it. He thought this was a very proper clause, and, though it might bear rather harshly upon some people, it was impossible to make a law that would suit everybody.

THE PREMIER (Hon. Sir J. Forrest) said he could not admit the argument

that this Bill would be to the particular advantage of large holders of land and press heavily upon small holders. He thought the opposite would be the result. He knew there were many large estates in the Eastern districts unfenced, and the owners of which had not contributed anything towards the cost of the adjoining fences. By this Bill these large owners would be compelled to contribute, and it would press pretty heavily upon some of them. Complaints were frequently heard also about absentee owners who did not fence or improve their lands, but took advantage of the labours of others. This Bill would also have a salutary effect in the case of these absentees; it would compel them to improve their lands to the extent of fencing them at any rate. He expected to see the whole of the lands in the Avon valley fenced in shortly if this Bill became law. As to the Bill pressing heavily on small holders, he could not understand it. Under the existing Land Regulations a man could not take up land except under conditions of improvement, and the first thing he had to do was to fence his land, because otherwise the land was useless to him. If the land was already fenced on two or three sides, surely that would be a great advantage to him; instead of having to pay the whole cost of fencing those three sides he would have his fence at one half the cost, and it would be there ready for him? In his opinion, the Bill would press more heavily on large holders, especially in the Eastern and Southern districts of the colony. As to the owners of the Peel Estate, he had no great sympathy for them; they were only waiting for something to turn up to improve their land. There might be cases in which people who had been using the labours of others for many years, and who would now be called to pay their share; but, could anyone say it was not right and just that these people should at last be called on to pay their fair share? He saw no injustice at all in making the Bill retrospective. He thought it would be very much more unreasonable if it provided that fences erected to-morrow should be paid for, but that fences erected a week ago should not be paid for.

MR. HARPER said they had been told by the hon. member for Albany that the Bill would be a very good thing for large owners, but a bad thing for small owners. [MR. LEAKE: I said large owners who had already fenced.] As to being a hardship upon small owners, there was not a tittle of evidence to support that contention; and, from his knowledge of the question, he was certain that the contrary would be the case. As to making the provisions of the Bill retrospective, that was the crux of the whole thing. If a man could not expect to recover the future value of a fence from an adjoining owner, it seemed to him there would be no value in the Bill at all. What the hon. member for Albany advocated was this: that the man who had done something towards developing and settling the country should be punished or penalised for having done so, but that the man who comes after him and reaps the benefit of the other man's labours should be allowed to reap the benefit of it without contributing anything towards it.

Question put—That the words proposed to be struck out stand part of the clause.

A division being called for, the numbers were—

Ayes	16
Noes	7
Majority against ...	9

AYES.	NOES.
Mr. Burt	Mr. Illingworth
Mr. Clarkson	Mr. Loton
Mr. Cookworthy	Mr. Randell
Sir John Forrest	Mr. R. F. Sholl
Mr. Harper	Mr. Simpson
Mr. Hassell	Mr. Solomon
Mr. Marmion	Mr. Leake (*Teller*).
Mr. Paterson	
Mr. Pearse	
Mr. Piesse	
Mr. Richardson	
Sir J. G. Lee Steere	
Mr. Throssell	
Mr. Venn	
Mr. Wood	
Mr. Monger (*Teller*).	

Question thus passed.

[In the above division Mr. Loton was crossing from the side of the "Noes" to the side of the "Ayes," but was prevented from doing so by the Chairman, in accordance with the Standing Order which provides that no member shall cross from one side to the other after the tellers have been appointed.]

MR. LEAKE moved, as an amendment, that in the fifth line, after the word "fence," the following words be inserted: "whenever the owner or occupier shall make use of it." He said they

had discussed the retrospective principle of the Bill, and the principle had been affirmed; but he now sought to limit its application by making it retrospective only in the event of a fence, previously erected, being made use of by the person called on to pay half the cost. The question had already been discussed, and it was no use dilating further upon it.

MR. ILLINGWORTH said the amendment went in the direction of mitigating the extent of the injustice which the Bill, in his opinion, would cause, and he would, therefore, support it. He understood that under the Land Regulations a man had five years within which to fence in his land; but what would be the result if this clause passed? Some rich landowner alongside of him who had a fence already erected would compel this man to pay half the cost of it within six months, with the result that the man who intended to settle on the land would simply be driven off the land, although he had been endeavouring to carry out the intention of the Land Regulations. There might be three different owners on each side of him, and each might demand half the value of his fence from him. That man, just entering upon his bit of land, would simply be crushed. Such a provision as this would press most heavily upon people who could ill afford it, both in the town and in the country. Many people who had bought land were simply able to pay so much a week for it, and if you compelled these people to pay at once for the dividing fence you simply placed them in a position to lose their bit of land altogether.

THE ATTORNEY GENERAL: It is in force now.

MR. ILLINGWORTH: It is not enforced now. The general practice and the current custom was that a man was not compelled to pay for an adjoining fence until he enclosed his own land.

MR. COOKWORTHY thought the hon. member for Nannine, who was supporting the cause of the small man and the small selector, did not really understand the subject he was talking about. If the small selector had a large proprietor alongside of him who had already put up a fence, the selector had simply to pay half as much for that fence as he would have to pay if he put it up himself and there was no large proprietor alongside of him. But there were others besides the small selector whom they ought to consider; this was the poor man who had a good lot of land which he could not very well afford to fence; and he thought it was time enough to compel such a man to pay when he made some use of his neighbour's fence. For that reason he would support the amendment.

MR. RICHARDSON could not help thinking that the hon. member for Nannine was a little off the track on this occasion. The hon. member might know a lot about Victorian selectors and Victorian legislation, but he did not know much about the land legislation of this colony when he talked about this Bill being hard upon the small selector. Before a selector could go and select his land at all, out of a lease—and in nine cases out of ten it would be out of a lease—already fenced or improved, he had to pay for those improvements cash down. That was the present law. There was one phase of this retrospective principle that had not been touched upon, and it was this: if you wiped it out you would be injuring the very class whom it was the earnest desire of some members to serve. In many cases the boundary fences that now existed had been up for a good many years—it might be ten, fifteen, or twenty years—and had deteriorated in value; and, although still good enough for all purposes, it would be only half their present value which would have to be paid.

Question put—that the words proposed to be inserted be inserted.

A division being called for, there appeared—

Ayes	7
Noes	15
Majority against ...	8

AYES.	NOES.
Mr. Connor	Mr. Burt
Mr. Cookworthy	Mr. Clarkson
Mr. Leake	Sir John Forrest
Mr. R. F. Sholl	Mr. Harper
Mr. Simpson	Mr. Hassell
Mr. Solomon	Mr. James
Mr. Illingworth (*Teller*).	Mr. Loton
	Mr. Marmion
	Mr. Paterson
	Mr. Pearse
	Mr. Piesse
	Mr. Richardson
	Mr. Venn
	Mr. Wood
	Mr. Randell (*Teller*).

Question thus negatived.

MR. LEAKE moved, in the seventh line, to strike out the words "in the case

of country land." He did not see why a distinction should be drawn between town and country land in respect of the time allowed for paying for a fence, if the Government refused to draw a distinction between the two classes of land in other portions of the Bill.

THE ATTORNEY GENERAL (Hon. S. Burt) said the reason why these words appeared was because the law, in its retrospective application, already applied to town and suburban lands, and this Bill extended its provisions to country lands; and they thought they would give the occupier of country land a little time to pay for his fence, as this principle was a new one in his case, whereas it was not so in the case of town land.

MR. JAMES said that argument would be convincing if it were a fact that all dividing fences in town had been paid for; but there were a large number that had never been paid for. Under the existing Act you could not recover any compensation in respect of your fence unless you took proceedings to protect yourself before the fence was erected. [THE ATTORNEY GENERAL: That is not the case. You may, but you are not bound to.] Assuming the hon. gentleman was right, the effect of this Bill would be to cause owners of fences already erected, but not paid for, to compel the adjoining owner to share half the cost.

MR. SOLOMON thought they ought to give poor people in town time to pay for their fences under this Bill, the same as those in the country, and, for that reason, he would support the amendment.

Question put—That the words proposed to be struck out stand part of the clause. Upon a division, the numbers were:—

Ayes	...	...	...	14
Noes	...	...	...	7
Majority for	...	...	...	7

AYES.	NOES.
Mr. Clarkson	Mr. Connor
Sir John Forrest	Mr. Illingworth
Mr. Hassell	Mr. James
Mr. Loton	Mr. R. F. Sholl
Mr. Marmion	Mr. Simpson
Mr. Paterson	Mr. Solomon
Mr. Pearse	Mr. Leake (*Teller*).
Mr. Piesse	
Mr. Richardson	
Sir J. G. Lee Steere	
Mr. Throssell	
Mr. Venn	
Mr. Wood	
Mr. Burt (*Teller*).	

Question thus passed.

MR. ILLINGWORTH said the clause as it stood gave a man six months to pay for a fence if the amount did not exceed £25, and unless the money was paid it became a charge upon the land. He wished to mitigate the hardship and injustice which this Bill would inflict, so far as he possibly could, and with that object he proposed to amend this clause by moving to substitute £10 for £25 in this instance, and to make a corresponding reduction where the amounts payable were larger. He now moved that the words "twenty-five" be struck out, and "ten" inserted in lieu thereof.

MR. RICHARDSON thought that the amendment of which the hon. member for the Williams had given notice would effect the same purpose in a better way, as it would give a man twelve months (instead of six) to pay the money, whether the amount was small or large, so long as it did not exceed £25.

THE ATTORNEY GENERAL (Hon. S. Burt) moved that progress be reported.

Agreed to.

Progress reported, and leave given to sit again another day.

ADJOURNMENT.

The House adjourned at five minutes past 5 o'clock p.m.

Legislative Council,

Wednesday, 22nd August, 1894.

Bankers' Books Evidence Bill: third reading—Employers' Liability Bill: first reading—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the chair at 4·30 o'clock p.m.

PRAYERS.

BANKERS' BOOKS EVIDENCE BILL.

This Bill was read a third time and passed.