

of the next session; and that is what will always happen if Bills be sent down to the Upper House towards the end of a session of Parliament. Advantage is sometimes taken of the fact that in this House the squatting and agricultural interests are well represented; and yet an attempt has been made to rush through Bills of great importance to those interests. Undoubtedly Clause 27 must be amended. I would draw attention to Clause 32, Sub-clause 2, providing a penalty for branding stock with an unregistered brand; and to Clause 33, Sub-clause 2, which reads:—

All sheep above the age of six months, upon which the registered wool-brand is not renewed from time to time and kept visible and legible, shall not be deemed branded with such wool-brand.

That is perfectly absurd to anyone who understands stock; because in dirty country such as is found in the North-West, after a shower of rain and two or three dust storms, it is impossible to see the brands on sheep unless every sheep in the paddock be caught and examined. If, therefore, a squatter registers a brand, brands his sheep, and three months afterwards finds the brands illegible, the sheep are not to be considered branded. I suppose the owner would altogether lose the sheep. In Committee, I shall move that the consideration of the measure be adjourned for a week, so that members may thoroughly look into it and see what amendment it requires.

HON. C. E. DEMPSTER (East): I have carefully looked through the Bill, and have little to find fault with. At the same time, there are several clauses which require amendment, and in particular those to which the last speaker referred. But as this is a Bill which will affect large stock-owners in the State, I think it would be well to bring it under their notice before passing it into law. In the northern districts are many large stock-owners who may be able to suggest some valuable amendments; and on that account it will be to the interest of pastoralists to defer the passing of the measure until it be well known to the people.

HON. J. E. RICHARDSON (North): I, too, should like this Bill deferred. I am not by any means against the measure. The Minister in charge says he has care-

fully gone through the Bill with a number of squatters. Well, I for one was not asked to consider the Bill; I did not know anything of its being considered by the squatters; and I should like time to consider it in the interests of my constituents in the North, many of whom have extensive stations. I am sure they have no idea this Bill has been brought in; they would like to see it; and I hope it will be postponed till full time is given them for its investigation.

HON. J. W. HACKETT (South West): I move that the debate be adjourned till this day week.

Motion put and passed, and the debate adjourned accordingly.

ADJOURNMENT.

The House adjourned at 9.40 o'clock, until the next day.

Legislative Council,

Wednesday, 12th February, 1902.

Question: Coolgardie Water Supply, Pipe Laying, etc.—Question: Military Contingent, Fourth—Question: Engineer-in-Chief, Salary and Allowances—Question: Early Closing Act, Breaches—Wild Cattle Nuisance Amendment Bill, first reading—Workers' Compensation Bill, Recommittal, third reading—Judges' Pension Bill, third reading—Coolgardie Goldfields Water Supply Loan Reallocation Bill, third reading—Industrial Conciliation and Arbitration Bill, Recommittal, reported—Perth Suburban Lots (Subiaco) Exchange Bill, second reading, etc.—Wines, Beer, and Spirit Sale Amendment Bill, in Committee, reported—Appropriation Bill, first reading—Public Works Committee Bill, first reading—Adjournment.

THE PRESIDENT took the Chair at 4.30 o'clock, p.m.

PRAYERS.

QUESTION—COOLGARDIE WATER SCHEME, PIPE LAYING, Etc.

HON. G. BELLINGHAM asked the Minister for Lands: If any agreement exists, or is there any reason why the laying and jointing of the pipes on the Coolgardie Water Scheme cannot be let

by tender, either as a whole or in sections.

THE MINISTER FOR LANDS replied: Yes; an agreement exists, and the interpretation thereof is now receiving the attention of a select committee of the Legislative Assembly.

QUESTION—MILITARY CONTINGENT, FOURTH.

HON. G. BELLINGHAM asked the Minister for Lands: 1, If the Government intends paying the members of the Fourth Contingent their furlough pay. 2, If not, why not.

THE MINISTER FOR LANDS replied: The Fourth Contingent has received furlough pay from the Imperial Government.

QUESTION—ENGINEER-IN-CHIEF, SALARY AND ALLOWANCES.

HON. F. T. CROWDER asked the Minister for Lands: 1, What is the amount of the Engineer-in-Chief's salary. 2, What amounts, if any, have been paid to him during the past 12 months outside said salary. 3, If any sum has been paid, does it include travelling expenses on railways.

THE MINISTER FOR LANDS replied: 1, £1,500 per annum. 2, £22 4s. 5d. during 12 months ended 31st January last. 3, Yes. (The whole of the amount, £22 4s. 5d., consists of travelling allowances and out-of-pocket expenses incurred on visits of inspection.)

QUESTION—EARLY CLOSING ACT, BREACHES.

HON. B. C. O'BRIEN asked the Minister for Lands: 1, How many summonses were issued against persons for breaches of the Early Closing Act during the period that it was in force. 2, The number of convictions recorded. 3, The amount of money received from that particular source.

THE MINISTER FOR LANDS replied: The replies to these questions involve a return which must be obtained from each district concerned: the information has been asked for, but it is impossible to obtain it for to-day. To obtain it by telegraph would cost about £6. The districts provided by the Act are Metropolitan, Geraldton, Coolgardie,

Kalgoorlie, Boulder, Kanowna, Bulong, Menzies, and Broad Arrow; and the districts brought under the Act by Proclamation under Section 5 are Bunbury, Boulder, Collie, Helena Vale, North Fremantle, Norseman, Northam, Southern Cross, and Cottesloe.

WILD CATTLE NUISANCE AMENDMENT BILL.

Introduced by the MINISTER FOR LANDS, and read a first time.

WORKERS' COMPENSATION BILL.

RECOMMITTAL.

On motion by HON. E. M. CLARKE, Bill farther recommitted for amendments.

Clause 5—Cases in which employer not liable:

THE MINISTER FOR LANDS: When Mr. Randell moved that in Sub-clause (b) of this clause the word "gross" be struck out, there was not time to raise objection. On looking into the matter it was found, however, that the amendment in question would have a very grave effect on the Bill, and would indeed almost make the measure unworkable. Accordingly he proposed to move as a farther amendment that in Sub-clause (b) the words "neglect or" be struck out, and "serious and" inserted in lieu. The Sub-clause would then read: "Is directly attributable to the serious and wilful misconduct of the worker." This would bring the clause into line with the South Australian Act. In support of the amendment, he desired to read some extracts from the debate in the Imperial Parliament on the occasion of the Bill being introduced in 1897. Sir Matthew White Ridley had said:—

We desire that it should avoid litigation, and that it should give the workmen of this country the right to compensation for those accidents which unfortunately must occur in the course of their industry, and we believe that we can do so without inflicting an unjust burden on the employers. [SIR JOSEPH PEASE: Irrespective of contributory negligence?] Irrespective of contributory negligence. We altogether leave that out; we do not propose to make contributory negligence a defence as regards compensation. I hope I have made the Bill sufficiently clear—at all events, I have endeavoured to do so—and, in the belief that it is an honest attempt to deal with a difficult question, I commend it to the impartial consideration of the House.

The view of the introducer of this Bill in the Imperial Parliament was thus, practically, that contributory negligence should not be a defence at all; and that view was supported by Mr. Joseph Chamberlain, who said:—

We have provided for those who are injured by no fault of their own, but we have gone beyond that, because we have provided for those who have, in the technical terms of the law, contributed to the accidents from which they suffer. At first sight we may appear to have gone too far, but it must be borne in mind that, under the definition of the law, the offence of contributory negligence has been made an excuse for avoiding all liability whatever. What is contributory negligence? A workman at the end of a long day's work may handle his tools carelessly. That is "contributory negligence," and yet it is practically an accident in the nature of what is called an "act of God." Another reason for doing away with this law of exception (of contributory and other negligence) is that we have held it to be a first principle, as well as one of our first objects, to avoid litigation.

Also Mr. Randell, who had moved that the word "gross" be struck out, had no objection to the amendment now moved.

HON. J. M. SPEED: Perhaps the Minister would explain the distinction between "serious misconduct" and "gross neglect." The words "gross neglect" had been defined by the courts, and most lawyers knew their meaning. Had any interpretation been given by the South Australian courts of the words "serious and wilful misconduct?" A dozen actions might be needed to define the words. Had the leader of the House consulted the Attorney General on the subject?

THE MINISTER FOR LANDS: Yes; certainly.

HON. J. M. SPEED: And was the Attorney General satisfied with the proposed amendment?

THE MINISTER FOR LANDS: Yes. The amendment would not have been proposed by him (the Minister) on his sole initiative.

HON. G. RANDELL: There was a broad and well understood distinction between "serious and wilful misconduct" and "gross neglect." He would be sorry if the Bill should be injured in any respect, and therefore he was willing to accept the amendment of the Minister for Lands. The amendment was desirable from an insurance point of view.

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

Second Schedule—Scale and conditions of compensation:

HON. T. F. O. BRIMAGE moved that in Clause 1, paragraph (c.), line 3, the word "thirty" be struck out and "one hundred" inserted in lieu. Thirty pounds was too low an amount to cover medical attendance and burial, where railway communication was non-existent.

THE MINISTER FOR LANDS: The amendment was accepted with pleasure. Thirty pounds was undoubtedly too small a sum.

HON. F. T. CROWDER: In supporting the amendment, he wished to point out that the words preceding the amount were "not exceeding." If hon. members agreed to make the amount £100 they would, therefore, be agreeing to that sum only as a maximum. The actual amount to be paid in each case would be settled by the proper authorities.

HON. J. T. GLOWREY moved as a further amendment that the word "thirty" be struck out, and "fifty" inserted in lieu. From £30 to £100 was too big a jump, and his amendment represented a fair compromise.

Amendment (Mr. Glowrey's) put and negatived.

Amendment (Mr. Brimage's) put and passed.

Schedule as amended agreed to.

Bill reported with farther amendments, and the report adopted.

THIRD READING.

On motion by the MINISTER FOR LANDS, Standing Orders suspended to allow of the Bill being passed at the same sitting.

Bill read a third time, and returned to the Legislative Assembly with amendments.

JUDGES' PENSION ACT AMENDMENT BILL.

Read a third time, on motion by the MINISTER FOR LANDS, and returned to the Legislative Assembly with an amendment.

COOLGARDIE GOLDFIELDS WATER SUPPLY LOAN REALLOCATION BILL.

Read a third time, on motion by the MINISTER FOR LANDS, and passed.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL.

RECOMMITTAL.

On motion by **HON. E. M. CLARKE**, Bill recommitted for amendment in Clauses 3, 20, 85, and 86.

Clause 3—What societies may be registered:

THE MINISTER FOR LANDS: On the previous evening Sub-clauses (a) and (b) of the Bill were struck out, and two sub-sections from the New South Wales Act inserted in their stead. Now, only trades unions could be registered under the Bill, whereas it was intended that societies which were not trades unions might become registered. It would seriously affect the measure if the clause were limited to the registration of trades unions only. He moved that Sub-clauses (a) and (b) be struck out, and that the clause as originally printed in the Bill be reinserted.

HON. J. W. HACKETT: There was no objection to the clause passing in its original shape. On the previous evening he had overlooked certain words in Clause 8 which affected Clause 3 of the Bill.

HON. G. RANDELL: While not objecting to the amendment, he could not see that the New South Wales Act only allowed the registration of trades unions and not societies.

HON. J. M. SPEED: Sub-clause (a) of the corresponding clause in the New South Wales Act was similar to this. Possibly the intention was to object to Sub-clause (b), though no objection had yet been expressed.

THE MINISTER FOR LANDS: The clause was better as it stood.

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

Clause 20—Procedure for cancellation of registration:

THE MINISTER FOR LANDS: The amendments made in this clause were somewhat in conflict with the object of the Bill. At the beginning of Sub-clause 2 the words "If upon the application to the registrar of any industrial union it is shown or" really nullified the clause by taking away from the registrar the power of initiative, which, without the amendment, the clause would vest in him. The object sought to be attained by the amendment was already provided for by Sub-clause 1. He moved

that at the beginning of Sub-clause 2, the words "If upon the application to the registrar of any industrial union it is shown or" be struck out. Then the clause would simply commence "If it appears to the registrar," and thus a power of initiative would be vested in the registrar.

HON. J. M. SPEED: Being the member responsible for the insertion of the amendment, and having consulted various members in another place on the subject, he opposed the striking out of these words. A careful perusal of the clause would show the Minister for Lands that an industrial union desirous of having its registration cancelled could apply for such cancellation under Sub-clause 1. The amendment made in Sub-clause 2, therefore, did not cause any narrowing of the provision. On the other hand, power was given to a union to apply to the registrar for cancellation of the registration of another union on the various grounds set out in the sub-clause. The whole object of the amendment was to amplify the power to apply for cancellation of registrations, and to allow of such applications being brought before the president of the court, who could decide them "in chambers," as it were. At present, the registrar alone could take steps for the cancellation of a registration; and there was no means of compelling the registrar to take action.

THE MINISTER FOR LANDS: It was only necessary to read Sub-clause 2 in order to see that the powers of the registrar were taken away by the amendment.

HON. J. M. SPEED: Sub-clause 2 as amended was an alternative provision. The registrar had power to cancel a registration on his own initiative, and under Sub-clause 2 as amended unions would have power to apply for the cancellation of the registration of other unions. It was desired that there should be power to apply to the registrar for cancellation of registration, and farther that there should be power to appeal from the registrar's decision to the president of the court.

HON. G. RANDELL: Mr. Speed's contention as to Sub-clause 1 appeared perfectly correct. Under that clause there was only power for a union to apply to have its own registration cancelled.

Under Sub-clause 2 as amended there was power for one union to apply for the cancellation of another union's registration. He saw no objection to the words.

HON. J. M. SPEED: Possibly, after the explanations given, the Minister for Lands would withdraw his amendment.

THE MINISTER FOR LANDS: Perhaps there was something in the contention raised, and he therefore asked leave to withdraw his amendment.

Amendment by leave withdrawn.

New Clause (85)—Special powers to extend, or join parties to an award:

THE MINISTER FOR LANDS: Both Clauses 85 and 86 had been struck out of the Bill. Although Sub-clause 2 of Clause 85 might have been excised, yet it would be advisable to retain the words "With respect to every award, whether made before or after the commencement of this Act, the Court by order at any time during the currency of the award shall have power to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto." He moved that these words be inserted, to stand as a new clause. The present Act contained exactly the same provision.

Put and passed.

HON. J. M. SPEED moved that Sub-clause 2, as originally printed in the Bill, be reinserted. The object of the clause was to prevent litigation as much as possible. According to the clause, one decision in a matter would bind all disputes in a similar trade in the same district.

HON. G. RANDELL: The sub-clause was bristling with difficulties: it gave powers to which some members had strong objection. It contained a lot about entering into competition in another market, and that sort of thing, which was unnecessary. If at some future time it was thought desirable to insert such a provision, that could be done.

HON. J. M. SPEED: In New Zealand this provision was inserted at the special request of the Judges, so that there should be as little litigation as possible.

Amendment (Mr. Speed's) put, and a division taken with the following result:—

| | | | | |
|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 5 |
| Noes | ... | ... | ... | 13 |

Majority against ... 8

AYES.
Hon. T. F. O. Brinnage
Hon. E. M. Clarke
Hon. A. Jameson
Hon. B. C. O'Brien
Hon. J. M. Speed
(Teller).

NOES.
Hon. G. Bellingham
Hon. J. D. Connolly
Hon. F. T. Crowder
Hon. C. E. Dempster
Hon. J. T. Glowrey
Hon. J. W. Hackett
Hon. E. McLarty
Hon. G. Randell
Hon. J. E. Richardson
Hon. Sir George Shenton
Hon. C. Sommers
Hon. F. M. Stone
Hon. R. G. Burges
(Teller).

Amendment thus negatived, and the clause as previously amended agreed to.

Clause 86—Application may be made to court by any board:

THE MINISTER FOR LANDS moved that Sub-clause 1 as originally printed in the Bill be reinserted.

Put and passed.

Bill reported with farther amendments, and the report adopted.

PERTH SUBURBAN LOTS (SUBIACO) EXCHANGE BILL.

SECOND READING.

Debate resumed from the previous day.

HON. G. BELLINGHAM (South): On looking at the map and making inquiries, I find the blocks proposed to be exchanged both contain the same area, 20 acres, and the block which the municipality wish to exchange is in every way suitable for recreation purposes, for which purpose it is desired to acquire the land. A ballot of ratepayers of the municipality of Subiaco has been taken, and it has been decided that the exchange of the blocks is in the interests of the town.

THE MINISTER FOR LANDS (in reply): In moving the second reading I omitted to state that the lots 270, 271, 272, and 273 were sandy blocks, of no use for the purpose for which they were at first intended, and that the block which was known as "Dyson's Swamp" was a valuable piece of land, indeed the finest block of its kind between Perth and Subiaco. Deputations had again and again waited on the Government with reference to this matter, and a deputation had also been to the owner of the block to ask for the exchange. This is an act of courtesy on the part of the owner of the block in consenting to the exchange, as it will be a loss to him, and it is one of those

events which we like to see. A public-spirited man is really doing this out of consideration for the municipality of Subiaco. I hope there will be no difficulty in passing the second reading, as many persons are anxiously waiting to see the Bill carried through, and it will make a great difference to many persons residing at Subiaco.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

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

THIRD READING.

On motion by the MINISTER FOR LANDS, Standing Orders suspended to enable the Bill to be passed at the same sitting.

THE MINISTER FOR LANDS moved that the Bill be now read a third time.

HON. J. W. HACKETT: It was to be presumed the Swan locations exchanged for the Perth suburban lots would be held under exactly the same conditions as were the lands to be transferred.

THE MINISTER FOR LANDS: Hon. members might rest assured that the land exchanged would be classified as "A" under the Permanent Reserves Act.

Question put and passed.

Bill read a third time, and passed.

WINES, BEER, AND SPIRIT SALE AMENDMENT BILL.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Two-gallon license :

HON. F. T. CROWDER: On first perusing the Bill, he had come to the conclusion that this clause would do away with gallon-license retailers; but on looking more closely into the measure, and after consulting Mr. Stone, he thought that such would not be its effect. He had contended yesterday on the second reading that the Bill was superfluous and useless, since Commonwealth legislation would override it. Although the Commonwealth gave power to brew in return for an annual license fee of £25, yet there was great doubt whether the holders of such licenses could sell.

THE MINISTER FOR LANDS: There was no doubt about it. They could sell.

HON. F. T. CROWDER: Lawyers said there was doubt. The amendment he proposed to move would make it permissive for a brewer, if he found he must have a license, to take out a two-gallon license on payment of an annual fee of 10s. Otherwise this Bill, in conjunction with the Commonwealth legislation, would throw a heavier tax on the brewer than was right, or indeed necessary. The provision must, however, be limited to brewers, as otherwise the present holders of gallon licenses would throw up the licenses for which they paid £10, and take out instead a two-gallon license at an annual fee of 10s. He moved that the following words be added to the clause: "Provided that the annual fee for such license granted to a person licensed to make beer under the Beer Excise Act 1891 shall be ten shillings."

THE MINISTER FOR LANDS: The wish of the hon. member could be more effectively met by adding to Clause 3 the words suggested. Of course, the amendment could be only by way of suggestion.

HON. F. T. CROWDER: Would the Minister move a suggestion to that effect?

THE MINISTER FOR LANDS: It would be rather irregular for a member of the Ministry to move an amendment in a Government measure. If, however, a member would move the suggestion, it would be accepted on behalf of the Government.

Suggested amendment by leave withdrawn.

Clause put and passed.

Clause 3—Application of 44 Vict., No. 9, to two-gallon license :

HON. F. T. CROWDER moved the suggested amendment (10s. license fee) as previously indicated.

Put and passed.

HON. G. RANDELL: The opinion had been expressed that under the Commonwealth legislation no private individual would be allowed to brew beer in this State without holding a license. It had been stated that farmers, for instance, could not brew beer even for their own consumption unless leave were obtained from the Commonwealth Parliament.

THE MINISTER FOR LANDS: Private individuals might brew sugar beer without a license; but nothing stronger.

HON. F. T. CROWDER: Surely private individuals could brew for their own use, so long as they did not sell.

Clause as amended agreed to.

Clause 4—agreed to.

Preamble, title—agreed to.

Bill reported with a suggested amendment.

Message accordingly transmitted to the Legislative Assembly.

APPROPRIATION BILL.

Received from the Legislative Assembly, and, on motion by the MINISTER FOR LANDS, read a first time.

PUBLIC WORKS COMMITTEE BILL.

Received from the Legislative Assembly, and, on motion by the MINISTER FOR LANDS, read a first time.

ADJOURNMENT.

The House adjourned at 6.25 o'clock, until the next day.

Legislative Assembly.

Wednesday, 12th February, 1902.

Question: Train Derailment at Katanning, particulars—Auditor General's Report, Reasons for Delay—Public Works Committee Bill, third reading—Early Closing Bill, first reading—Appropriation Bill, second reading, etc.—North Perth Tramways Bill, second reading, in Committee, reported—Coal Mines Regulation Bill, in Committee (resumed), reported—Workers' Compensation Bill, Legislative Council's Suggestions—Land Act Amendment Bill, in Committee (resumed), progress—Transfer of Land Act Amendment Bill, second reading (negatived)—Health Act Amendment Bill, in Committee, reported—Adjournment.

THE SPEAKER took the Chair at 4.30 o'clock, p.m.

PRAYERS.

QUESTION—TRAIN DERAILMENT AT KATANNING, PARTICULARS.

MR. TAYLOR (for Mr. Thomas), asked the Commissioner of Railways: 1, How many derailments had occurred at the Katanning railway station during the past three months, and dates of such accidents. 2, What cost had been incurred by the department in consequence of such accidents. 3, Whether an inquiry had been held as to the causes of such accidents; if so, who is to blame. 4, Who was the shunter stationed at Katanning. 5, On what date he entered the service. 6, Whether he was on duty on July 4th to 11th.

THE MINISTER FOR RAILWAYS replied:—1, During the last three months four derailments have occurred at the Katanning railway station. Particulars briefly are:—(a.) 6th November, 1901: Truck 4276 was derailed, in No. 1 loop, through Shunter Stuckey (of Albany staff) omitting to see that points were correctly set. (b.) 17th January, 1902: Trucks 711 and 511 derailed, in No. 1 road, through Porters Coy and Rogers (of Katanning staff) failing to see that the stop block was removed before giving the driver the signal to go ahead. (c.) 18th January, 1902: Brake van Z 5025 was derailed, when being backed through points leading from passenger siding to goods shed, owing to the points not having been turned for crossover road to main line before the train was signalled back. Porter Rogers was responsible for omitting to correctly set the points. (d.) 23rd January, 1902: Truck 4572 was derailed owing to failure on the part of Guard Cull (of Albany staff) to remove the stock block on No. 2 road before signalling the driver to proceed.—2, Cost: (a., b., c.) None as far as can be ascertained. (d.) Crossbar of brake triangle slightly bent. Cost of repairs not known.—3, Full inquiries were made into each case, and responsibility located, as shown in answer to Question 1. 4, At present, Porters Coy and Rogers perform the shunting operations. 5, Coy entered the service on 11th October, 1900, and has been at Katanning since 3rd November, 1901. Rogers entered the service on 12th July, 1901, and was transferred to Katanning on 9th September, 1901. Porter Hayson was at Katanning from 16th September, 1901, until October last.