much pleasure in supporting the measure. I thoroughly agree with what my friend has said as to this having arisen through the misleading form in the schedule to the Act.

Question put and passed.

Bill read a second time.

*In Committee.*

Hon. W. Kingsmill in the Chair; the Colonial Secretary in charge of the Bill.

Clause 1—agreed to.

Clause 2—Validation of notices under Act No. 13 of 1906:

Hon. M. L. MOSS moved an amendment—

*That in line 6 the word "notice" be struck out and "Bill of sale" inserted in lieu.*

Hon. J. D. CONNOLLY: The object of the amendment was not quite clear. In 1906 when the Bills of Sale Act Amendment was brought forward, there was strenuous opposition to it by the Associated Banks, and a calamity was predicted if the Bill passed. It was defeated at one stage, but he (Mr. Connolly) had it reinstated, and as a compromise he agreed that the Act should only remain in force for three years. The object of the then amendment was that notice had to be given before a bill of sale was registered. The amendment now proposed in no way nullified the notice.

Hon. M. L. MOSS: A bill of sale as drawn stated that the "notice contains a description of the property comprised in the bill of sale and at the date of the notice on the premises." Where a bill of sale was executed any distance from Perth, say at Port Hedland, the document would go up to Port Hedland for signature and a month after that probably, notice of intention to register would be given, because notice of intention to register could not be given until the document existed, and it did not exist until it was signed. If the Bill was only to provide that it should affect the property at the date of notice, the Bill was not a security over all the property on the premises when the bill was executed, but if it was only to affect the property on the date of the notice then the security would be in an awful mess. This would not apply to people taking securities in Perth and Fremantle, but it would affect securities at a distance from Perth. If the Bill was only to operate from the date of notice there would be no security when the notice was given.

Hon. D. G. GAWLER: The object of the amendment was to describe existing tangible property, therefore the notice was really the bill of sale in itself. The notice therefore should describe the property on the premises at the time the bill of sale was signed, and not the time when the notice was signed. It would be impossible to describe property on the premises at the time notice was given if that property was situated some distance from Perth.

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

Title—agreed to.

Bill reported with an amendment.

*House adjourned at 5.54 p.m.*

# Legislative Assembly,

*Thursday, 3rd October, 1912.*



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

## QUESTION—SITTING DAY, ADDITIONAL.

Mr. O'LOGHLEN asked the Premier (without notice): In view of the quantity of business on the Notice Paper and the great number of private members' Bills,

will the Premier state when he proposes to introduce Friday sittings in order to catch up with the work?

The PREMIER replied: We have not yet considered the question of sitting on Fridays, and we do not propose to sit on Fridays unless it is absolutely unavoidable.

## QUESTION—POWELLISATION OF TIMBERS.

Mr. GEORGE asked the Premier: Will he lay on the Table of the House the reports of the engineers of both the Public Works and the Railway Departments, and any other reports he may have dealing with the powellisation of karri and other West Australian timbers?

The PREMIER replied: If the hon. member will move in the usual way, the particulars may be supplied.

## QUESTION—RAILWAY EMPLOYEES' WAGES, ARBITRATION BOARD COST.

Mr. LAYMAN asked the Premier: 1, What was the cost to the State of the special arbitration board appointed to fix the wages to employees on the railways? 2, What were the fees paid to each member of the board?

The PREMIER replied: 1, £285 16s. 4d. 2, Rev. Brian Wibberley, £66 3s.; Mr. H. W. Hope, £44 2s.; Mr. J. W. Diver, £44 2s.; Mr. E. A. Evans, £37 16s.

## BILLS (2)—FIRST READING.

1. Electoral Act Amendment.

2. Licensing (Local Option) Amendment.

Introduced by the Attorney General.

## BILL—FREMANTLE RESERVES SURRENDER.

Returned from the Legislative Council with an amendment.

## BILL—LANDLORD AND TENANT.

Received from the Legislative Council and read a first time.

## BILL—RIGHTS IN WATER AND IRRIGATION.

*In Committee.*

Mr. McDowall in the Chair; the Minister for Works in charge of the Bill.

Clause 1—agreed to.

Clause 2—Interpretation.

Hon. J. MITCHELL: Would the Minister explain what was meant by "bed and banks," particularly in regard to swamps and marshes. In connection with a stream there were usually well-defined banks, although in some cases the channel was a narrow one and was part of a broad bed. This was the case with the Avon, the channel of which was only a few yards wide as a rule, but the bed was two or three hundred yards wide before one came to the banks as described in the Bill.

The MINISTER FOR WORKS: The interpretation made the terms perfectly clear. Bed and banks included the land over which the water normally flowed or which was normally covered by the water thereof. The definition did not include land from time to time temporarily covered by flood waters.

Hon. J. Mitchell: What do you mean by temporarily covered?

The MINISTER FOR WORKS: The normal condition of a lake or lagoon was its condition without the flood waters coming in. When the flood waters came in a certain area of its bed was only temporarily covered.

Mr. GARDINER: It was desirable to amend the clause by striking out all the words after "thereof" in line 4 of the definition of bed and banks, with a view to inserting in lieu, "and all land within one chain of the normal water mark." If the Minister intended to go in for a system of irrigation it was essential that he should have some rights over the land adjoining the water courses. No individual had the right to block up any riverway or watercourse in the State.

Hon. J. MITCHELL: Before we reached the part of the definition referred to by the hon. member would the Minister give some explanation as to what course it was intended to

take in regard to swamps and marshes that were dry for seven months in the year, and often used for growing potatoes.

The MINISTER FOR WORKS: The definition was perfectly clear. It stated that the bank of a marsh was the bank of the marsh in its normal condition. At flood time a marsh was not in its normal condition. Banks of marshes were easily defined. The normal condition of a lake was not in the winter. The only way to arrive at it was to take an average part of the year.

Hon. J. Mitchell: What does "normal" mean?

The MINISTER FOR WORKS: The meaning of "normal" was perfectly clear to the average member of the Chamber.

Mr. HARPER moved an amendment—

*That in line 4 of the definition of "bed" and "banks" the words "during the summer months" be inserted after "thereof."*

Water was not required for irrigation in the winter, and the proper way was to take the normal condition of creeks or rivers during the summer months.

Mr. TURVEY: It was surprising to hear the quibbling over such a simple word as "normal. "The normal flow of water in Western Australia could only be taken as the flow during the summer months. By no stretch of imagination could the bed of a stream be taken to mean those flats such as at Guildford which were covered for three or four months of the year.

The MINISTER FOR WORKS: If we accepted the amendment proposed by the member for Pingelly (Mr. Harper) it would be necessary to put in another "normal," and say it was to be a normal summer. Difficulty would be created at once if we attempted to insert words in this definition which was already perfectly clear. Did the hon. member propose to take last summer, when there was very little water, or next summer, when there might be plenty of water?

Hon. J. MITCHELL: In regard to swamps the Minister had missed the point. Did he intend to take control of swamps which were covered with water for seven months of the year?

The Minister for Works: Every year?

Hon. J. MITCHELL: Yes.

The Minister for Works: Then that is a normal condition.

Hon. J. MITCHELL: So we gathered the Minister proposed to take possession, without compensation, of every swamp holding water for seven months of the year, though these swamps were quite capable of being drained in the future, and though even now they were suitable for cultivation during five months of the year. It was too drastic a step to take. There should be some amendment on the lines suggested by the member for Pingelly. The water in the swamp would never be required for irrigation because it would not be required during the winter, and it was not there during the summer. The experts would advise the Minister that these swamps would not be required. It would mean that the Minister would take possession of land of great value which would never be used by the department. There was no desire to indulge in too much confiscation. We should make the Bill a reasonable measure.

Hon. FRANK WILSON: A settler with a depression in his land into which the rain trickled in the winter and formed a swamp, which dried up in the summer, held a piece of land which was very valuable for potato growing. Was it the intention of the Government to take possession of that land?

The Minister for Works: That spot could not be irrigated.

Hon FRANK WILSON: But would the water be taken away from the swamp to irrigate some other land?

The Minister for Works: Where would you take it?

Hon. FRANK WILSON: That was the point. Under the Bill the swamp would be vested in the Minister.

The Attorney General: Only provided it is permanently covered with water.

Hon. FRANK WILSON: No.

The Attorney General: If not it does not come within the definition.

Hon. FRANK WILSON: According to the definition "swamp lands" were lands "usually" covered with water, not "permanently." Was this swamp land which became dry during the summer to be transferred to the Minister?

Mr. McDonald: On a point of order. The definition under consideration was that of the terms "beds" and "banks." Was the hon. member in order in discussing "swamp"?

The CHAIRMAN: Later on there was a definition of "swamp," therefore the discussion was in order.

Hon. FRANK WILSON: There were in the country potato swamps.

The Minister for Works. I have no hesitation in saying the Bill has no connection with them.

Hon. FRANK WILSON: And would not interfere with them?

The Minister for Works: Certainly not; the Bill makes that perfectly clear.

Hon. FRANK WILSON: Perhaps the Minister would point out where it was perfectly clear on that point.

The MINISTER FOR WORKS: Land would be taken for the purpose of irrigation. We wanted to put water on the land, not to take it off, and if there was no water on the land in the summer time it was no use for irrigation. The leader of the Opposition asked if the Government would take swamps that were dry in summer. What use for irrigation purposes would a swamp be if it was dry in summer? These swamps were cultivated every summer for potato growing. The definition of "irrigation" was "any method of causing water from a water-course or works to flow upon and spread over land for the purpose of tillage or improvement of pasture." If a swamp was being cultivated it could not be improved further. There were in Western Australia large lakes that were really the beds of rivers. There was the Arthur River, for instance. Unless there was a definition of this description, these lakes and lagoons could not be taken. There was a definition of swamp land in the Bill and it applied to the term "beds" and "banks." They were defined under their normal conditions. The member for Northam had pointed out that there were lakes, lagoons, and swamps that were covered for seven months in every year with water. That was their normal condition and they would come under the definition if they were useful for irrigation purposes.

Hon. FRANK WILSON: On looking through the definitions he found that lakes, lagoons, swamps, and marshes were dealt with in another definition. It said, "In the expression 'Lake, lagoon, swamp, or marsh,' each term means a natural collection of water into or out of which passes either continuously or intermittently a current forming the whole or part of the flow of a river, creek, stream, or water-course." That, read in conjunction with the definition we were now discussing, answered all the objections which he had to a swamp in a man's own paddock, because the water must flow intermittently in or out.

Hon. J. MITCHELL: If the Minister took possession of every swamp in the country that had water in it for seven months of the year it would be nothing less than confiscation. Not far from Fremantle there was a 6,000 acre block of land which was bought some time ago because it had a swamp in it of value and he believed the swamp emptied into Thompson's Lake. That swamp would pass into the control of the Minister. There should be something which showed that the Minister required the water to irrigate adjacent lands. If the Minister took all the south-west country which was under water in the winter months there would not be much left for the owners. . . . . .

Mr. HARPER: The summer months were the only months in which one could get the normal conditions of a swamp. Water could not be forced up hill without machinery, therefore it would not be right to take the quantity of water in a stream at any other time than in the summer months, as the normal condition.

The ATTORNEY GENERAL: What about the winter months? The amendment would make the clause ridiculous. Why not add "all the year round."

Mr. Harper: We will make it "all the year round" if you like.

Mr. NANSON: If the definition said "during the summer months" then came the question, what were the summer months, and when did the summer begin and when did it end?

The Minister for Works: And should we take a wet or a dry summer.

Hon. J. MITCHELL: The hon. member would be well advised to withdraw the amendment, and insert the word "permanently."

Amendment by leave withdrawn.

Mr. Harper moved an amendment—

*That in line 9 of the definition of "bed and banks" the word "normally" be struck out, and "permanently" inserted in lieu.*

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

| | | |
|---|---|---|
| Ayes | .. .. .. | 12 |
| Noes | .. .. .. | 21 |
| Majority against | .. | 9 |

| Ayes | |
|---|---|
| Mr. Allen | Mr. Moore |
| Mr. Broun | Mr. Nanson |
| Mr. Harper | Mr. A. N. Piesse |
| Mr. Male | Mr. S. Stubbs |
| Mr. Mitchell | Mr. F. Wilson |
| Mr. Monger | Mr. Layman (*Teller*). |

| Noes | |
|---|---|
| Mr. Angwin | Mr. Mullany |
| Mr. Bath | Mr. O'Loghlen |
| Mr. Carpenter | Mr. Scaddan |
| Mr. Collier | Mr. B. J. Stubbs |
| Mr. Foley | Mr. Swan |
| Mr. Gardiner | Mr. Taylor |
| Mr. Gill | Mr. Thomas |
| Mr. Green | Mr. Underwood |
| Mr. Johnson | Mr. Walker |
| Mr. Johnston | Mr. Heitmann (*Teller*). |
| Mr. McDonald | |

Amendment thus negatived.

Mr. GARDINER moved an amendment—

*That the words after "thereof" in line 4 of the definition of "bed and banks" be struck out, and "and all land within one chain of normal water-mark" be inserted in lieu.*

This would mean that, in the event of the Minister deciding to enter upon any irrigation works, he would have some ground to work on. A chain on each side of the water course was a very small strip. In other parts of Australia a minimum of one chain was reserved along all natural water-courses.

The MINISTER FOR WORKS: The amendment was not at all necessary. All that was required just here was to provide a definition of "beds and banks." If the hon. member really wished the Government to acquire more land than was specified under the Bill, there was a proper place in the Bill at which to move the amendment. Power was already taken in the Bill to resume any land required for the purposes of irrigation. but the amendment, by giving a chain on each side of water-courses, lakes, and lagoons, would provide a good deal of land for which the Government would have no use at all. The amendment was unnecessary.

Amendment put and negatived.

Hon. FRANK WILSON: In respect to the definition of "lake, lagoon, swamp or marsh" the Minister would do well to accept certain words which were included in the Queensland Act. The insertion of these words would make the definition clearer, and would protect the settler who owned land which had a lagoon exclusively within its own boundaries. He moved an amendment—

*That after "water" in line 2 of the definition of "lake, lagoon, swamp or marsh," the words "not situated wholly within the boundaries of a parcel of land alienated in fee simple by the Crown before the commencement of this Act and" be inserted.*

The MINISTER FOR WORKS: Apparently the idea of the hon. member was that if a lake or lagoon were situated within land held by one particular individual, then the definition would not apply. The amendment could not be accepted. One of the propositions the Government now had under investigation was that known as the Roelands scheme. On paying a visit to the site of the proposed reservoir, he had found a lake and the whole of it was on one parcel of land. That being so, the definition, if amended, would

not apply. That was the object of the amendment.

Hon. Frank Wilson: Yes, so long as there is no water running through the land.

The MINISTER FOR WORKS: The definition was perfectly clear. We wanted to take over those rivers that were fit to be used for irrigation. The majority of rivers became a series of lakes and lagoons during the dry months, and that was the time when the water was required. The definitions had been framed to meet Western Australia's conditions, and the one under discussion was clear and broad, and could easily be understood by landowners.

Hon. FRANK WILSON: If the Minister accepted these words which were in the Queensland Act which had been largely followed——

The Minister for Works: Followed to some extent.

Hon. FRANK WILSON: Then if he owned a paddock, in the centre of which was a lagoon that would be his property and no one could touch it. If there was an overflow of course the Government could conserve that. Under the definition the Crown could take the bed of the swamp.

Mr. B. J. Stubbs: Do not you think that is right?

Hon. FRANK WILSON: No, the water was what was wanted, and not the man's property.

The MINISTER FOR WORKS: It was difficult to imagine where a lagoon could be found with a source of springs that would feed it in order to form a river.

Hon. Frank Wilson: Lakes are often formed from surface drainage.

The MINISTER FOR WORKS: If water was running in and out and it was fit for irrigation then the Crown would take it all. If there was no right to take a lagoon under these circumstances, there would be no right to take a river.

Mr. Nanson: You would take everything above and below the lake.

Hon. J. MITCHELL: The object of the amendment was that where there was simply a pool it would not be interfered with. Under the definition however, such a swamp could pass to the control of the Crown because water flowed in and out. Was it fair that people on valuable repurchased land like Stirling Estate, some of which was under water at the present time, should be made nervous regarding their rights? Would the Minister say he would take possession of such property without compensation?

Mr. B. J. STUBBS: The effect of the amendment was that any sheet of water within the boundaries of one person's land would be exempted from the definition. A pool of water coming under this definition might be essential to the irrigation of a considerable tract of country, and the amendment would prevent the water from being so used.

Mr. Nanson: You can take the overflow.

Mr. B. J. STUBBS: No, because the water would be exempted from that definition, and further the overflow would be useless because that would occur only in the wet season, and the water was required during the dry months. The catchment area might extend far and wide, and the water could not be the property of any one individual.

Amendment put and negatived.

Hon. J. MITCHELL: The definition gave the Minister tremendous power. A swamp would be regarded as part of a river, and could be taken by the Crown; yet the Minister said he did not desire to take swamps. If the swamps around Perth were taken, the district would be deprived of vegetables.

Mr. B. J. Stubbs: They would be taken to provide for the further cultivation of vegetables.

Hon. J. MITCHELL: The Minister could achieve his object without this wide definition. The Minister might say whether it was his intention to take possession of all the land that was occasionally covered with water. If he did that, members would know what his intentions were; at present it was believed he did not intend to deprive the people of Osborne Park of their land, but under the Bill he would have power to do so.

The MINISTER FOR WORKS: It was perfectly clear that it was only desired to take control of those waterways where the water was sufficient to justify its being taken for irrigation purposes. The hon. member said that the Government were going to take the Stirling Estate. As a matter of fact that estate did not flow into a river; it was being drained now to get the water off it. In regard to Herdsman's lake hon. members had been requested to assist in having it drained. It was because the water was not flowing in or out of it that it would not be of any use for irrigation. The definition was placed in the Bill to make the position clear; it was only intended to take those lakes, lagoons, and swamps in and out of which the water flowed.

Hon. J. MITCHELL: That would be all right, but the Minister ought to be corrected in regard to the Stirling Estate. Retaining banks were being built there now to keep the water from the Capel River from flowing over the flats.

The Minister for Works: We had to drain the swamps. . . . . .

Hon. J. MITCHELL: Did the Minister simply want pools that formed parts of the rivers of the South-West?

The Minister for Works: That is exactly what the clause states; read the concluding part of it. . . . . .

Hon. J. MITCHELL: Every swamp must have its overflow, and that found its way into a river. Many swamps had been purchased by the people for purposes of cultivation during the summer months, but if we took every swamp out of which water flowed into a creek and then into a river we would take every swamp in the South-West, or indeed in the State. The Minister wanted to control all rivers, and that was reasonable, and the control of pools that formed part of river beds; that also was reasonable, but it was not reasonable to ask the House to give him powers to take possession of swamps on an estate. This was asking the House to give far too much power. If the Minister made it clear that he had no intention of touching swamps of that description the position would be much more satisfactory.

The MINISTER FOR WORKS: If as the hon. member stated there were swamps in the South-West that were held by private individuals and which were feeders to a river, if they formed part of that river then it would become possible for the Government to take them. The hon. member surely did not really think that the Government would take, for the purpose of feeding a river, a swamp that was valuable for cultivation. The Bill as framed was meant to bring about more cultivation, not to interfere with existing cultivation.

Hon. J. MITCHELL: That was satisfactory, as far as it went. The definition of "swamp lands" was—"Lands that are from natural causes usually covered with water or the soil whereof is usually saturated with water so as to be unfit for irrigated culture." Whilst the first portion of that definition was clear, the latter portion of it was confusing. The Minister would find that very great powers were being conferred, greater than were needed, and sooner or later trouble would arise because there might be a Minister whose zeal would run away with his discretion.

Mr. A. N. PIESSE: The whole trouble arose, in his opinion, out of the words "swamp or marsh," and he failed to see that it was necessary to have those words. The words "lake and lagoon" would be sufficient. Some swamps had water flowing through them, and many of them did not have water flowing in or out.

The Minister for Works: Then the Bill will not apply to them.

Mr. A. N. PIESSE: Still it seemed that the words "swamp or marsh" were scarcely necessary.

The MINISTER FOR WORKS: If the water was not flowing in or out of the swamp it would not come under the Bill, nor would it come under the Bill if it did not form part and parcel of a river. If, however, the swamp fed any considerable quantity of water into a river, and the water was required for irrigation, then it would be taken.

No interference would be attempted with valuable swamps which were already drained and cultivated. Only in cases where it was wanted for irrigation purposes would the water be taken. If the swamp was a valuable feeder to a river it would be treated under the Bill.

Hon. J. MITCHELL: If the swamps were taken compensation should be paid to the owners. The Minister ought to accept a new clause providing for the payment of compensation in the case of a swamp being used to hold up water.

The Minister for Works: We are not going to conserve water in a swamp, I said that only if the swamp was a material feeder to a river would we take it.

Hon. J. MITCHELL: Would it be possible for the Minister to take a swamp in order to conserve water?

The Minister for Works: No.

Hon. J. MITCHELL: Well that was all right. He desired to have it on record that if such a swamp were taken the owner would be compensated.

Clause put and passed.

Clause 3—The Minister and advisory commissioners:

Hon. J. MITCHELL: Would the Minister explain his intentions in regard to these advisory commissioners?

The MINISTER FOR WORKS: It was intended to utilise the services of the expert officers in the department, who could assist in advising as to where irrigation propositions were possible. No doubt the officers to be utilised would be the Commissioner for the South-West, the Fruit Commissioner, and the Irrigation Expert. Mr. Scott, in conjunction, of course, with the engineer, Mr. Oldham. These gentlemen would be brought in to assist the Government with advice as to where irrigation propositions were advisable.

Hon. J. MITCHELL: The officers named should form a very satisfactory board of advice, but it was doubtful if the Minister ought to limit his choice of commissioners to officers in the Public Service. The Minister might find a gentleman like Mr. Barrett-Lennard very useful in this regard. It would be well if the Minister were to omit from the clause the words "being officers of the Public Service."

The MINISTER FOR WORKS: The suggested amendment would not be agreeable. There were in the service officers second to none in the State in point of experience and knowledge of the possibilities of irrigation. Although ready to admit that Mr. Barret-Lennard was doing good work, still he was not prepared to accept the view that in respect to irrigation that gentleman could be of greater service to the Government than could Mr. O'Connor, Mr. Moody, or Mr. Scott, whose special duty it had been to study all phases of irrigation, and who were fully competent to deal with the question.

Mr. NANSON: There was no reason why the Government should narrow the scope of selection by confining the commissioners to persons already in the Public Service. Under the clause the Minister would be unable to call in the services of persons who had made a commercial success of irrigation. It was not likely that the Minister, in recommending advisory commissioners, would appoint so many outsiders that the views of the departmental officers would be outvoted. It would not hinder the departmental officers in their work and it might assist them materially if they had associated with them a competent gentleman who, while not wishing to join the Government service, was perfectly willing to give his services as commissioner. The clause would be improved by the omission of the words "being officers of the Public Service."

Hon. J. MITCHELL: The striking out of these words would not mean that the Minister would be compelled to go outside the Public Service. The commissioners would act in an advisory capacity, without any executive power at all. There was no reason why the Minister should not have as wide a choice as possible. In Mr. Scott we undoubtedly had a first class officer, but it did not follow that Mr. Scott could not be assisted by Mr. Barrett-Lennard, who had made a commercial success of irrigation.

The Minister for Works: We have in the Government service all the brains and knowledge we require, and there is no need to go outside.

Hon. J. MITCHELL: There was not a word to be said against the officers named by the Minister, but since the power was merely advisory, the Minister might well take the right to call in any person other than the gentlemen named to assist in the administration of the measure.

*Sitting suspended from 6.15 to 7.30 p.m.*

Hon. J. MITCHELL: The Minister had already been asked to strike out the words, "being officers of the public service." The Minister was taking extraordinary powers under the Bill and now when the Committee asked him to take still greater powers he hesitated.

The MINISTER FOR WORKS: The Government were of opinion that they had the best authorities inside the service. That being so they did not propose to go outside the service, and they stated that in the Bill. He could not agree to the words being struck out.

Clause put and passed.

Clause 4—Natural waters vested in the Crown:

Hon. J. MITCHELL: Would the Minister explain what was meant by the reference to water from a spring. Such water was to be controlled by the owner until it reached his boundary, but when it entered upon the property of the second landholder, did the Minister propose to take control of it?

The Minister for Works: It becomes a watercourse then.

Hon. J. MITCHELL: Not always.

The Minister for Works: Then we do not take control of it.

Hon. J. MITCHELL: Sometimes a stream originating at a spring in one man's block flowed on to the land of his neighbour and was used by him, but under the Bill the Minister could take charge of the water as soon as it reached the first landholder's boundary.

The MINISTER FOR WORKS: A river might start from a spring, and in order to make it clear that the Government did not propose to take control of a spring inside a man's property, the Bill stated that unless the water passed from a spring, formed a watercourse which flowed beyond the owner's boundary, and such watercourse could be used for irrigation, the Government would not take control of it.

Hon. J. MITCHELL: The Bill was not clear on that point. The reference to the spring was unnecessary if it applied only to a stream running from a spring; but apparently if a man had a spring on his property and it overflowed on to the land of his neighbour, the Minister would take control of it there.

The MINISTER FOR WORKS: The power conferred by the clause was absolutely necessary. A spring might form the source of a river.

Hon. J. Mitchell: A man may have a 10,000 acre block, and a river may take its rise on his land; the Minister will take control of it there.

The MINISTER FOR WORKS: Not until it flowed beyond the boundary. If it was a spring and limited to that man's property, then it did not form a water course outside the property, and did not come within the scope of the measure, but if the spring formed the source of a water-course that extended beyond the boundary, then that water might be taken control of outside of the boundaries, if it was suitable for irrigation.

Mr. MALE: Apparently it was not the desire of the Minister to interfere with pastoral artesian bores.

The Minister for Works: Only to prevent waste.

Mr. MALE: A bore put down purely for pastoral purposes could not create a waste. A squatter would not go to the expense of putting down a bore to water stock unless he required its full flow throughout the year. To put down a bore at great cost just to water stock around the hole would not pay, because the land just near to the bore would not carry sufficient stock to justify the expense. He could quite understand that the Minister required a bore when it was used for irrigation, or for a town

water supply or other purposes, but on a pastoral property it was put down for the one purpose of getting its full flow. The Minister already had a safeguard against waste in the power conferred upon him to prevent undue multiplication of bores in any one artesian basin. He moved an amendment—

*That the following proviso be added to Subclause 1:—"Provided that this shall not apply to any artesian well which has been constructed and is being used for pastoral purposes?"*

The MINISTER FOR WORKS: The provisions in the Bill in regard to taking control of artesian bores had been taken from the legislation of Queensland and New South Wales. The provisions of this part of the Bill had been inserted at the request of the highest authorities in Australia, and surely it was not suggested that those gentlemen were actuated by any desire to confiscate anything or were influenced by any political opinion.

Mr. Male: Who are they?

The MINISTER FOR WORKS: The Bill as originally drafted had not contained these provisions, but they had been inserted as a result of a conference of geologists of the Commonwealth held early in the year. These authorities stated—

> We are of opinion that where necessary, legislation should be enacted in order to secure the effective control by the State of all existing and future bores.

We should take control of existing bores in order to prevent waste. Some licenses for bores might be refused because the water already drawn from the basin might be as much as the basin could supply, and because the water from existing bores was being wasted. There were districts, including Bunbury, where artesian water would be used for irrigation.

Mr. Male: I admit your right there.

The MINISTER FOR WORKS: Then the hon. member must admit the right to control the water in pastoral districts to prevent waste. In parts of the North-West, water was flowing for miles, but that would not be interfered with.

Mr. McDonald: Millions of gallons run to waste from one bore alone.

The MINISTER FOR WORKS: In that case more water was struck than was required at the time because the country was not fully stocked. Mr. Butcher was conveying water from a bore on his property for some miles for stock. That would not be interfered with. If water was being wasted on Mr. Cadd's property and someone else put down a bore and could not get a supply, the waste in one place would be stopped in order that the other man might get a supply.

Mr. MALE: The amendment would be a useful addition to the Bill. It was possible that at the start some water might run to waste. To control a bore from the start might cause it to silt up. Squatters should have some safeguard and should know that their bores would not be rendered practically valueless.

The Minister for Works: They know that in New South Wales.

Mr. Taylor: It has not worked any harm in the Eastern States.

Mr. MALE: Waste of water was caused by an undue multiplication of bores, and not by the flow from a single bore. It was necessary to run the water for miles, and it was not right for the Minister to decide that there was a waste simply because there was not sufficient stock to drink the water available.

The MINISTER FOR WORKS: The provisions of the Bill were taken from Acts in Queensland and New South Wales where they had been in operation for a considerable time, and the best authorities had recommended other States to copy them. The amendment should not be pressed.

Hon. J. MITCHELL: It was impossible to prevent waste from an artesian bore. A gentleman at Carnarvon tried to stop the flow from a bore and, after considerable expense had been incurred, the water broke out in another place. The casings corroded very quickly in the North-West. People should be encouraged to put down bores. Mr. Butcher conveyed the water on his property for miles by means of channels, and Mr. Cadd had gone to considerable expense in con-

nection with his bore, and it would be unfair because some water was going to waste for the Minister to impose a charge for all above a certain quantity. If more water was used than the Minister considered necessary, a meter could be put on and the excess quantity charged for and the charge would be entirely at the discretion of the Minister. There was justification for the fear that the clause might work considerable harm.

The Minister for Mines: If criminal waste was going on what would you do?

Hon. J. MITCHELL: Wait until the case arose.

The Minister for Works: We only want to exercise the power where necessary.

Hon. J. MITCHELL: Had occasion arisen for any interference? The power given would deter pastoralists. It was not necessary to give power that it was not intended to exercise.

Mr. TAYLOR: The legislation asked for had been in operation in Queensland, where the pastoral industry was carried on to a greater extent than in this State, and there were no complaints. Again, a conference of geologists had recommended that the other States should fall into line with the legislation of Queensland and New South Wales, and get the control of artesian waters in the hands of the State. The legislation worked no harm in Queensland, and the hon. member should be satisfied that a Government in Western Australia would be no more anxious to hurt the pastoral industry by interfering with the artesian supply of water than any Government in another portion of the Commonwealth would be to injure their agricultural or pastoral areas.

Amendment put and negatived.

Mr. McDONALD moved an amendment—

*That in Subclause 3 the words "and it shall also not apply to any subterranean source of water supply from which the water does not flow naturally but has to be raised by pumping or other artificial means" be struck out.*

Those responsible for the introduction of the Bill thought that where persons had to go to the expense of providing pumping machinery it would be a guarantee against waste, but the expense would be nothing. Sub-artesian waters were portions of the great basin in Western Australia, which provided the artesian waters, and it was necessary that the some control be exercised over them by the Government. These were the sub-artesian bores belonging to the State, Geraldton 11,700 gallons a day, Fremantle 1,100,000 gallons, and Subiaco, Bunbury, and Eyre's Patch, considerably over half a million each.

The MINISTER FOR WORKS: The proviso was made simply to prove that all the Government wished to do was to prevent waste so far as artesian supplies were concerned. Where machinery or other mechanical power had to be resorted to to get a sufficient flow it was sufficient guarantee that the water would not be wasted. With an artesian flow, unless there was some foul restricting it, there would be no effort on the part of the owner to restrict it, but where it was not an artesian flow and every gallon raised cost a certain amount of money, the water would not be wasted. He opposed the amendment.

Mr. MALE: It was pleasing to see the Minister was consistent in carrying out the Queensland Act which included the words the amendment sought to strike out. If the logic advanced in regard to the previous amendment had to be accepted, we must take the Queensland measure as being a good one and founded on experience. But, as a matter of fact, it was common sense to say that a man who went to the trouble of putting down a well and struck sub-artesian water, and had to employ an engine or some other mechanical means of raising the water, was not likely to expend power for the purpose of pumping the water to waste it.

Mr. McDONALD: Subclause 1 gave the Government the right to control artesian and subterranean sources of supply, but in this case the Crown could at no time exercise control of the waters exempted by the portion of Subclause 3 he proposed to strike out. It was just as

logical if we conceded the control of other waters to expect the Crown should control sub-artesian waters seeing they came from the same basin. The expense of power employed would be absolutely nothing. A man could put up a big windmill or a hot air pump, and pump continuously night and day, allowing the water to run to waste.

Amendment put and negatived.

Clause put and passed.

Clause 5—The alveus of watercourses and lakes not alienated:

Hon. J. MITCHELL: According to this clause every stream would revert to the Crown. In the back country there was a good deal of marshy land and if the Minister omitted every marsh from the title, C.P. blocks would surely be affected. If the Crown interfered there should be some provision for compensation. It might be that the owner might be put to considerable expense if the Minister liked to enforce every clause of the Bill.

The MINISTER FOR WORKS: This clause was consistent with the whole of the Bill inasmuch as it clearly outlined where the Crown would have power to take what might be called the belly of the creek. That would be taken irrespective whether it had been alienated, or whether the centre of the creek had been given by the Crown to the property owner.

The MINISTER FOR LANDS: The misconception of the member for Northam was that the intention of the Bill was to take the bed and banks as if they were the primary consideration of the measure, when the whole object was to secure the use of the water for purposes of irrigation, and in order to ensure that that water might be obtained without undue interference, perhaps at critical periods in the history of the settlement that would be served by the irrigation scheme, it was necessary to have as a contingent right, but always associated with the use of the water as the primary consideration, the bed or banks—the trough which contained the water.

The MINISTER FOR WORKS: This question had already been discussed on the interpretation. The question of what we had the right to take had been fully gone into and now we were asking for the right to take. The member for Northam was simply trying to raise another discussion on the interpretation clause which had already been adopted.

Hon. J. MITCHELL: The intention of the Minister or of the Government was not questioned but the Committee were dealing with the Bill as it was printed, and when discussing the definition the Minister said that there was no intention of doing what the clause provided.

Mr. A. N. PIESSE: It was intended that the clause should apply to the whole State. If it were confined to an irrigation district there would not be so much objection to it, but as it was, it certainly amounted to confiscation and compensation should be granted. If a river bed were resumed the values would undoubtedly be affected.

Mr. McDONALD: Would the Minister supply some information with reference to the land which was alienated? Would land held under leasehold for a certain term of years be held to be alienated in accordance with this clause?

The MINISTER FOR WORKS: Alienated land was land which was held in fee simple. Leasehold was not alienated. Under leasehold there would be control of the rivers.

Mr. Hudson: It depends on the terms of the lease.

The MINISTER FOR WORKS: In leaseholds we had that right. The member for Toodyay knew that we discussed this matter on the definition clause, which made it clear that the Government would take water only for the purposes of irrigation. The clause under discussion gave that power and the interpretation clause showed how the power was going to be exercised. It was no use talking about confiscation because we were only adopting the course which was followed throughout the world. He had before him a work on practical irrigation in which an expert summarised

the whole of the irrigation laws of the world, and it showed that we in this State were not adopting anything which was new. The expert clearly outlined that to make irrigation possible the control of rivers must be taken, and he pointed out that the essential feature of measures introduced in various parts of the world had demonstrated that in the first place there was no right to any water course, and the State was justified in taking back that which had been alienated. All we wanted was to get a water supply and it was not intended to interfere with the people where the water could not be used for irrigation purposes.

Hon. J. MITCHELL: If the Minister would accept an amendment such as he intended to move later all the trouble would be overcome. The member for Toodyay had asked that the streams that were of no use for irrigation should remain unaffected by the measure. That was a reasonable request. The people of the State should know that the bed of every stream would pass to the Crown, apart altogether from the question as to whether or not it was required for irrigation.

Mr. MALE: It appeared that the Minister was inclined to resent free discussion of the Bill. Admittedly the Minister objected to the use of the word confiscation, but by the employment of the words "heretofore alienated by the Crown" the clause distinctly savoured of confiscation.

The Minister for Works: If the water has been sold we are confiscating it, but I do not admit that it has been sold, or that anyone had the right to sell it.

Clause put and passed.

Clauses 6 to 11—agreed to.

Clause 12—Owner of land adjacent to any watercourse may have permission to protect land from damage by erosion or flooding:

Mr. TAYLOR: In the event of the Government damming a river and so throwing the water back along a certain flat, cultivated bank which previously had only been submerged for a brief period of a few days in every two or three years, if by permanently flooding that cultivated area of low-lying bank the Government ruined the fruit trees or other produce growing upon it, the only recourse open to the owner would be to obtain permission from the Minister to do certain things at his own expense in an endeavour to save his land from being flooded as a result of the damming of the river at some point below him. It would be a very awkward position for a small orchardist on the banks of a river.

The MINISTER FOR WORKS: In the case stated by the hon. member the Government would be taking from the owner of the flooded area more land than they were entitled to take under the Bill, and consequently they would have to pay compensation.

Clause put and passed.

Clause 13—agreed to.

Clause 14—Ordinary riparian rights defined:

Mr. MALE: This was another clause taken from the Queensland measure, but it had been slightly mutilated by the omission of certain important words. He moved an amendment—

> *That in line 8 after "stock" the words "and for factory use for the purpose of generating steam in steam boilers or condensing plants therein, and for the development of water or electrical power; provided that the water supplied to such development be returned to the watercourse or lake undiminished in quantity" be inserted.*

It was only reasonable that the people should have the water for their boilers.

The MINISTER FOR WORKS: The words had been omitted for the reason that they would have no application in Western Australia, and, therefore, would have been superfluous. There was no instance in Western Australia of a mechanical contrivance driven by water wheels. To insert the words would be to overload the clause.

Mr. MALE: Although no actual instance of a water-driven contrivance in Western Australia could be called to mind at the present moment, yet it might easily be that there were such instances to-day;

and in any case this motive power might be adopted in the near future. There could be no harm in inserting the proposed words.

Hon. J. MITCHELL: Down at Picton there had been a mill driven by a water wheel, and it might even be that it was still being so driven. Moreover, water was being used at Greenbushes for tin sluicing.

The Minister for Works: Not water from the river.

Hon. J. MITCHELL: Yes, it was understood that the water was brought from the Blackwood river. In any case he hoped the Minister would accept the amendment, because it would certainly improve the clause.

Mr. NANSON: Water was used for hydraulic sluicing at Greenbushes and elsewhere. The owner had the right to use the water now and that right should be preserved to him.

The MINISTER FOR WORKS: The owner had not the right to use the water. If a person was using the water from the Blackwood River for the purposes of sluicing, he was doing so under license and that license could be continued because the Bill did not propose to preclude the issue of licenses. The Queensland provision which the hon. member for Kimberley wished to see adopted also contained the proviso that the water must be returned to the stream in undiminished quantities. Those words could not apply to Western Australia, and as they were absolutely superfluous they had been dropped. So far as the control of artesian waters was concerned the Queensland measure was the best in Australia, but except for the portion dealing with artesian supplies, this Bill was not framed on the Queensland model. It was based mainly on the Victorian Act. He was not prepared to accept the amendment, because the powers sought were absolutely superfluous in Western Australia to-day, and if they were required in future they could be obtained by license.

Mr. NANSON: The section in the Queensland Act only provided that the water applied to develop water or electrical power should be returned in the same quantities. If water was required for factory purposes or for generating steam in steam boilers, it could not be returned in the same quantities, and it would be absurd to insert a provision of that nature. He could not see why the Minister should not agree to insert the whole of the words in the Queensland section.

The Minister for Works: It is only overloading the Bill.

Mr. NANSON: It was difficult to see why for factory purposes a man should not have an absolute right to use the water from the stream. He could not use a great quantity except for the development of water or electrical powers, in which case, if the Queensland proviso was inserted, he would have to return an equal volume of water to the stream.

The MINISTER FOR WORKS: Whilst the words proposed to be added were to be found in the Queensland Act, they were not to be found in the Victorian measure, which was more modern and under which irrigation was practised to a very much greater extent than in the northern State. The provisions of this Bill were more liberal than the Victorian Act, because the latter was made retrospective, and a man had to be using the water for ten years previous to the passing of the Act. The Victorian statute did not contain the words which had been quoted from the Queensland legislation, because no doubt they were found to be superfluous there, as they would be in Western Australia.

Hon. J. MITCHELL: If a water wheel was established on any of the streams, it would not diminish the quantity of water available for irrigation. A water wheel had been used in the South-West and perhaps was still being used, and it might be that in many places throughout the State water was used for one or other of the purposes mentioned by Mr. Male. The amendment would continue the right that now existed and enable the use of water for purposes other than those set out in the clause. The Minister would save himself a lot of trouble and the country considerable expense by agreeing to the amendment.

Amendment put and negatived.

Mr. MALE moved a further amendment—

*That in line 11 "three" be struck out, and "five" inserted in lieu.*

Five acres was a small enough plot to be allowed for garden purposes, and the amendment would make the Bill still more in accord with the Queensland Act.

Mr. A. N. PIESSE: Why should the area be limited at all. He would prefer to delete all the words after "irrigation" and insert in lieu "provided such land is not situated within the boundaries of an irrigation district." Why should they limit the area of an orchard or garden to be supplied with water for irrigation purposes?

The MINISTER FOR WORKS: Mainly because one man might get all the water and his neighbour get none. There were instances to-day of one man robbing his neighbour of his right to water.

Mr. A. N. PIESSE: It would not pay to pump water any great distance for irrigation.

The Minister for Works: We will limit the area to three acres and then they will not pump too far.

Mr. A. N. PIESSE: The land fronting that water might be highly suitable for fruit growing, and why should development be restricted?

The MINISTER FOR WORKS: The area was stipulated at three acres because that was considered to be a fair quantity of land to allow present holders of riparian rights. If the area was increased, an injustice might be done to neighbouring settlers.

Mr. Male: They would have recourse at common law.

The MINISTER FOR WORKS: Why should that be necessary? No one man had a right to all the water, and that condition prevailed to-day to the detriment of neighbours. In Victoria the area was three acres, though in New South Wales it was five. This measure was being built mainly on the Victorian law because that was the most up-to-date in Australia.

Mr. HARPER: The area should be five acres. Land in Victoria was more valuable than that in Western Australia.

The Minister for Works: No, we have better land for irrigation than they have.

Mr. HARPER: Victoria had a smaller area and was more thickly populated, and land was of a higher value there than in Western Australia. Irrigation should be encouraged and three acres would not warrant the erection of pumping plant. Later on, if necessary, the area could be reduced.

Mr. A. N. PIESSE: The Minister did not clearly understand the position with regard to some holdings in the Avon district. One man held 4,000 or 5,000 acres, and there was a large body of water in the centre. The Government experts would tell the Minister that although the water was there in large quantities, it was of little use to neighbours because the cost of pumping was far too great. He (Mr. Piesse) had land fronting some millions of gallons of water, but Mr. Scott had advised him that it would not pay to lift the water. His neighbour had ten acres of orchard, and under this clause he would be restricted to irrigating three.

The Minister for Works: If it will not pay to lift the water we will not interfere with it.

Mr. A. N. PIESSE: But the area would be limited. This measure would apply to the whole State.

The Minister for Works: Yes, but only for irrigation purposes.

The MINISTER FOR LANDS: Many measures in their general application covered the whole of the State, but their particular application was confined to certain localities. The provisions of this Bill would operate only where the departmental officers advised that an irrigation scheme could be embarked upon. While this clause safeguarded some pre-existing rights of a landholder and secured to him irrigation for an area of three acres, it also secured to him participation in the irrigation scheme for the district. He would thus have sufficient water to irrigate three acres, and for domestic supplies and for stock, plus

his share of the water under the general irrigation scheme applying to the district. In the circumstances how were his interests jeopardised? If we gave people the entire control of water which might serve twelve times as many settlers, we would fail in the effort to establish irrigation settlement. Victoria failed at the outset because of a foolish attempt to apply to large holdings a scheme which was essentially for small areas. Costly works were embarked upon and not only was the scheme a failure, but the whole community was mulcted in severe loss. At present irrigation works in Victoria went hand in hand with the water supply and the control of the land to be served, so that intense culture was made possible on small areas by which alone irrigation could be made successful. The hon. member's fears were groundless. If there was no justification for embarking on a scheme of irrigation in a particular district, and the Avon did not appear to be one of those localities where an irrigation settlement could be promoted, there was no likelihood of any of these provisions being put into operation.

Mr. A. N. Piesse: Then why not restrict it to irrigation districts?

The MINISTER FOR LANDS: If restrictions were imposed we would be unable to foresee exactly what the community was capable of with regard to irrigation schemes. If the hon. member sought to express in the Bill his opinion of those rivers and streams suitable for irrigation schemes, and the areas to which the Bill would apply, he would at once realise the futility of such a task. We should be content with securing general powers which would be applicable to all localities reported on by the engineers and experts from time to time. That would be the only security for successful administration.

Hon. J. MITCHELL: It was right that water should be controlled and that the owner of a property should have the right to irrigate for his homestead a sufficient area for his own purposes.

Mr. B. J. Stubbs: This does not limit the area he can irrigate.

Hon. J. MITCHELL: It limited the area that could be irrigated free or without a license. The man should have the right to irrigate a garden, a small orchard and a lucerne patch. The power asked by the member for Toodyay, Mr. A. N. Piesse, could be given in another part of the Bill. Where land was not declared to be in an irrigation district, streams ought to be used as they were to-day, and the Minister should provide for that if it was not already covered by the provisions in the Bill. It should not be forgotten that even if the free area was increased up to five acres for each homestead, the State would benefit, so long as the water was used. Of course harm would be done if any man had the right to all the water in a stream, but it was incredible that five acres to each person on the stream would exhaust the water.

Mr. O'Loghlen: It is quite possible.

Hon. J. MITCHELL: Allowing five acres to each holder along the Brunswick river would not mean that very much water would be used in irrigation.

The Minister for Works: How much has Mr. Clarke under irrigation?

Hon. J. MITCHELL: The Minister was not proposing to irrigate from the Collie river.

The MINISTER FOR WORKS: But Mr. Clarke was interfering with his neighbours, who protested very strenuously that he was taking all the water and they were getting none.

Mr. O'LOGHLEN: We ought to have a lot of men like Mr. Clarke, but we could not get them unless they got the water. One man should not absorb the lot.

Hon. J. MITCHELL: Mr. Clarke showed commendable energy and should be encouraged.

The Minister for Works: His neighbour also if he could only get as much water as Mr. Clarke gets.

Hon. J. MITCHELL: Increasing the area to five acres would not interfere with any people on the streams in the South-West. It would improve the Bill and allow the farmers in the South-West to grow lucerne.

Mr. A. N. PIESSE: The last part of the clause went too far. It would interfere with the development of many fine patches of soil. The Minister might see fit to recommit the Bill and delete these words seeing it was too late to move an amendment.

Mr. NANSON: The clause might discourage rather than encourage irrigation in some parts. Many of our rivers were but chains of pools in summer and it might pay only one occupier of land adjacent to one of these pools to use the water from that pool for irrigation purposes. If that occupier irrigated more than three acres and years afterwards the Government spent £100,000 in a scheme for conserving the water in the stream in the winter, he would be denied any compensation by the clause which provided he had no right to irrigate a larger area than three acres. The State might not be in a position to undertake a work costing so large a sum for many years to come, but no one would go to a larger outlay for irrigation from one of these pools than was sufficient for three acres, because he must look forward to the time when he would be deprived of all compensation for his private scheme other than for the amount covering three acres.

The Minister for Works: Under Clause 16 he may get a special license and go straight ahead.

Mr. NANSON: That was a general clause. It was not intended to allow a person for all time to irrigate a larger area, which would not be in accordance with public policy. The proper course would be to compensate the man if he irrigated more than three acres and the Crown did not interfere with him for a specified number of years. The power would not be limited to land within irrigation districts. No one in any part of the State would be allowed to irrigate more than three acres, except at his own risk, and expect compensation.

The MINISTER FOR WORKS: By giving the right to use the water on a large area, we gave the right to an individual to take that which did not belong to him.

Mr. Nanson: But no one else wants it.

The MINISTER FOR WORKS: There were cases where others did want the water. Mr. Clarke, who had done a lot of good, had established an irrigation scheme, but his neighbour, with land running down to the creek just the same as Mr. Clarke's, was short of water last year, because Mr. Clarke's engine had pumped up almost all the water as fast as it came down the stream. Gull brothers had started an irrigation plot on the Serpentine to grow lucerne. There were one or two others coming in. Mr. Doolette had started and he was going to irrigate an enormous area. He did not know where Mr. Doolette was situated as compared with the Gull brothers, but if he was above them they would certainly be short of water. It was absolutely essential that the Government should get control of these streams.

Mr. Nanson: I am with you as far as the permanently running streams are concerned.

The MINISTER FOR WORKS: The clause dealt with the cases to which he had referred—permanently running streams, and to those people on the streams the Government were giving a special right, but at the same time he was not prepared to admit that they had a right. His personal opinion was that no one had a right to alienate water. The Government said to them that their water would be free for three acres, and what was taken over that would have to be paid for. In Clause 16 the other phases that the member for Greenough raised were dealt with. Then there was also the right to give a special license to make special terms according to the circumstances.

Hon. J. Mitchell: Why do you not agree to five acres?

The MINISTER FOR WORKS: Because three acres was fair.

Amendment put and negatived.

Clause put and passed.

Clause 15—Certain riparian owners may apply for special licenses to divert and use water:

Hon. J. MITCHELL: Why did the Minister provide that a man must have been using water for two years before

he had the right to apply for a special license?

The MINISTER FOR WORKS: Because it was considered that works were not thoroughly established unless they had been going for two years. In Victoria the provision was that they had to be established for ten years. In this State it was thought that two years would meet the circumstances.

Hon. J. MITCHELL: A man may have gone to considerable expense in connection with his orchard, and the Minister knew well that there would be very few people who would use the water for two years. He moved an amendment—

*That in line 6 the words "from a date not less than two years" be struck out.*

The Minister for Works: I cannot agree to it. Two years is a fair thing.

Mr. MALE: The late Government began in the direction of assisting people to start irrigation works, and placed the services of Mr. Scott, the Irrigation Expert, at the disposal of settlers. These works had been going on and probably a good deal had been done within the last two years. It was unfair, therefore, that these men should be barred from coming under the provisions of the Bill.

The Minister for Works: You encourage a section of the people.

Mr. MALE: No; all the people who liked could come along, it was only reasonable that what had been done by the Government in the past should be recognised.

Mr. A. N. PIESSE: This clause would put a tax on thrift, and he was sorry that so little encouragement was to be given to irrigation. It seemed that part of the Bill said, "Thou shalt not irrigate." Why should we not give full consideration to those schemes already established?

Hon. J. MITCHELL: The desire of the Minister seemed to be to alter all that had been done before. These people had spent money under direct encouragement from the Government, and now it was intended to insert this provision. There were some 200 people irrigating in the South-West, and over 100 of them would be denied the right of a special license under this clause. That would not be fair.

The Minister for Works: I am going to give everybody an equal opportunity; I am not going to favour a few.

Hon. J. MITCHELL: We were not asking that anyone should be favoured. We were asking the Minister to give everyone the right to apply for a license. It was his intention to have the words struck out if possible.

The MINISTER FOR WORKS: It had already been stated that in the opinion of the departmental advisers of the Government two years was a term absolutely necessary to permit of the establishment of irrigation on a proper basis. Any man whose private scheme had been established for two years could obtain a special license carrying special privileges, but other persons would not be entitled to these special licenses for the reason that if everyone were to get a special license it would be found very difficult indeed to work a general irrigation scheme. Some hon. members seemed to think that quite a proper course to adopt was to support the second reading of the Bill and subsequently do their utmost to mutilate the measure in Committee, with the object of rendering irrigation impossible. Apparently those hon. members desired a continuation of existing conditions, under which a certain few had control of all the water, to the detriment of the large body of the people interested. The member for Northam (Hon. J. Mitchell) was active in the interests of a select few, while his (the Minister's) object was to see that everyone had an opportunity of irrigating. In his own opinion these special licenses should not be provided for at all.

Hon. J. MITCHELL: Resentment was natural when one listened to the remarks of the Minister. Surely one could be wholly in favour of irrigation and yet be against the Bill. In the days when the Minister for Works had sat in Opposition the Minister had never missed an opportunity of fiercely opposing any and every measure brought forward by the late Government. It was being said outside

by members supporting the Minister that members of the Opposition were opposed to irrigation; but that was not true.

The Minister for Works: It is true.

Hon. J. MITCHELL: The Minister had said that he (Mr. Mitchell) was desirous of protecting the interests of a few people, and was willing to act against the interests of the great majority.

The Minister for Works: That is my opinion.

Hon. J. MITCHELL: On the contrary he was in favour of protecting all the people. There were in the measure provisions which should make the Minister blush. A grave injustice would be done if the clause were to be agreed to as printed. The Minister had said that his officers advised the term of two years. Had that been advised by the Irrigation Expert, or the Commissioner for the South-West or the Fruit Commissioner?

The Minister for Works: The Bill was submitted to all those experts; they are not as casual as you are.

Hon. J. MITCHELL: There would have been no suggestion of irrigation today if he were as casual and incompetent as was the Minister for Works. If the amendment were not agreed to a grave injustice would be done to many people.

Mr. NANSON: Taken as a whole the measure was a very admirable one, yet it did not follow that it could not be profitably amended in some details. In making provocative remarks and accusing members of the Opposition of being opposed to the Bill, the Minister was not showing the fairness which might reasonably be expected of him. The member for Northam (Hon. J. Mitchell) had been perfectly within his rights in endeavouring to secure from the Minister the reason why this minimum period of two years was laid down. Having heard the reason given he (Mr. Nanson) was rather inclined to agree with the Minister, but he thought the Bill was more likely to go through without unnecessary delay if the Minister refrained from charging hon. members with attempting to block the measure.

Mr. A. N. PIESSE: It was not easy to accept without protest the scolding administered by the Minister. On the whole the Bill was a fairly good one, yet it contained clauses which invited criticism. The Minister had repeatedly stated that he did not intend to put the measure into operation in all districts. Why, then, had he not accepted the suggestion, previously made, that its operations should be definitely restricted to irrigation districts?

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

| | | |
|---|---|---|
| Ayes | .. .. .. | 7 |
| Noes | .. .. .. | 21 |
| Majority against | .. | 14 |

AYES.

| | |
|---|---|
| Mr. Allen | Mr. A. N. Piesse |
| Mr. Male | Mr. F. Wilson |
| Mr. Mitchell | Mr. Layman |
| Mr. Monger | *(Teller).* |

NOES.

| | |
|---|---|
| Mr. Angwin | Mr. McDonald |
| Mr. Bath | Mr. Mullany |
| Mr. Carpenter | Mr. O'Loghlen |
| Mr. Collier | Mr. B. J. Stubbs |
| Mr. Foley | Mr. Swan |
| Mr. Gardiner | Mr. Taylor |
| Mr. Gill | Mr. Thomas |
| Mr. Hudson | Mr. Underwood |
| Mr. Johnson | Mr. A. A. Wilson |
| Mr. Johnston | Mr. Heitmann |
| Mr. Lewis | *(Teller).* |

Amendment thus negatived.

Hon. J. MITCHELL: Was Subclause 6 taken from the Queensland or the Victorian Act? It provided that a licensee should make a statutory declaration at the end of each year that he had used the water in accordance with his license and would continue to do so. This seemed an unusual provision. The Minister would have his inspectors who surely would be able to see whether the licensee was complying with the terms of his license. If an irrigationist on occasions transgressed in a small way unwittingly he could not make a statutory declaration afterwards. Was this provision vital to the measure?

The MINISTER FOR WORKS: Portions of this clause were from the Queensland Act and portion from the Victorian measure. A man was given a license to utilise water for a certain purpose, and

in renewing the license the Government called upon him to say that he had used the water in accordance with the license. It was desirable to avoid having inspectors, because the employment of inspectors would increase the cost of water to the consumer. Therefore instead of sending inspectors round to see that the irrigationists carried out the terms of their licenses they were called upon to make a statutory declaration.

Hon. FRANK WILSON: The subclause placed the user of the water in the position that if he was like a certain American statesman and would not tell a lie, he would be prosecuted for using the water for other than the purpose for which he was licensed, whilst the man who made a false declaration would get off scot free. That was peculiar legislation. What action was the Minister going to take if a man truthfully said that he had used the water for other purposes than that for which he was licensed to use it?

The MINISTER FOR WORKS: The subclause was taken from the Queensland Act and the principal object was to see that the water had been used for the purpose for which the license was granted and that the irrigationist would continue to so use it.

Hon. Frank Wilson: Suppose he is not?

The MINISTER FOR WORKS: If the man was not using the water according to his license he would not get a renewal.

Hon. Frank Wilson: Exactly, you force a man to convict himself.

The MINISTER FOR WORKS: If the man had not used the water rightly he would not come up for a renewal.

Hon. Frank Wilson: Then what is the use of the declaration?

Hon. J. MITCHELL: According to Subclause 7 the Minister might cancel a license and say what compensation should be paid to the owner of the land. There was to be no appeal; the Minister would pay just what he pleased. The Minister should amend the provisions by inserting words that the claim could be settled by appeal to some court as was provided in another portion of the Bill.

The MINISTER FOR WORKS: The compensation to be paid was in the event of granting a license, and the Minister finding it necessary in the public interests that the license should be revoked. If an injury was done by revoking the license the Minister would compensate the owner, and it would be easy to fix the compensation because it would be only for the unexpired period of the license.

Hon. J. MITCHELL: When a man was granted a license he naturally supposed that he would have it continued from year to year.

Mr. Male called attention to the state of the House; bells rung and a quorum formed.

Hon. J. MITCHELL: The license was for 10 years and a man had to be irrigating for two years before the license was issued, so that the damage might be serious.

The Minister for Works: We do not prevent him from getting water; we only take away the license.

Hon. J. MITCHELL: What was the license for but to continue to use water over land which had been irrigated for two years prior to the passing of the measure? It was not satisfactory that the Minister alone should determine the compensation to be paid if the license was taken away. It should be fixed by some tribunal. The Minister could only take the advice of his officers. At any rate, provision should be made to give the right of appeal. It was as reasonable in this case as in the taking of land.

The MINISTER FOR WORKS: A man had a right to get a special license. It was left to the Minister, after getting information and hearing any appeals to grant a license for 10 years. It could not be definitely laid down that the license would not be interfered with for 10 years. In the case of a drought it might be against public policy to continue it. Therefore, the Government were taking the power to revoke or modify a license. That right must be reserved in case special circumstances arose. If the license

was taken away and injury was done, compensation would be given. It was not like taking land where there could be a difference of opinion as to value. Before a license was interfered with the holder had the right to appeal against the revocation or modification.

Hon. J. MITCHELL: How did the Minister propose to fix the value?

The Minister for Works: We grant the license and can fix the value.

Hon. J. MITCHELL: That would be more difficult than the Minister imagined. A man might lay down lucerne plots at great expense——

The Minister for Works: The expert officers can fix it.

Hon. J. MITCHELL: It was only fair that the man should be able to appeal to a tribunal.

The Minister for Works: The clause does not say there shall be no right of appeal. We do not want to put a provision in because he would have the right at common law.

Hon. J. MITCHELL: How could he proceed at common law?

The Minister for Lands: Take action for the recovery of damages.

Hon. J. MITCHELL: No appeal was provided for under the clause. It was unreasonable that the Minister alone should decide the compensation.

The Minister for Works: Would you have me go to the court and ask what I should pay? I would make an offer and if he did not like it he could go to the court.

Hon. J. MITCHELL: How could he get there under common law?

The Minister for Lands: By instituting an action.

Hon. J. MITCHELL: It was easy to say that. The Bill should be made complete by allowing the injured person the right to appeal.

The Minister for Works: He has the right to appeal.

Hon. J. MITCHELL: Not under the clause. It would depend on the state of the Minister's liver what compensation a man was offered. He hoped the clause would be re-drafted and put in order. The Bill would not pass into law until this matter had been fixed up.

Mr. Foley: Has that been fixed up?

Clause put and passed.

Clause 16—Ordinary licenses:

Mr. MALE moved an amendment—

*That the word "or" after "period" in line 4 be struck out and the words "and on" be inserted in lieu.*

The word "or" was obviously a mistake.

The Minister for Works: That is so.

Amendment passed; the clause as amended agreed to.

Clause 17—Conditions for the exercise of certain rights to take and use water:

Hon. J. MITCHELL: This was an important clause, providing that where works had been established a certain quantity of water might be taken by the owner. The Minister stated that for domestic and other purposes 4,000 gallons per day per mile of frontage might be taken, and 200,000 cubic feet per annum for irrigating the three acres. How many gallons would the 200,000 feet represent?

The Minister for Works: Work it out for yourself.

Hon. J. MITCHELL: We were entitled to know. Would the Minister say what would be done for the man whose frontage to the stream was less than a mile? How many gallons would be allowed? Would he have sufficient to irrigate three acres if the frontage was only 500 yards?

The Minister for Works: He gets three acres under the other clause.

Hon. J. MITCHELL: There was no limitation under the other clause, but the limitation was imposed by this clause where the Minister constructed works. If a man had a hundred yards frontage to a stream would he get only one-eighteenth of 4,000 gallons per day?

Mr. McDonald: He would not need more; he could not have many stock on a small holding like that.

Hon. J. MITCHELL: It did not follow that the holding was small because the frontage was limited. Would the Minister promise to have the clause inquired into, and made perfectly clear if it did not do what was required?

The Minister for Works: Yes, if it does not convey what I want it to convey.

Hon. J. MITCHELL: It should provide a man's undoubted right to 4,000 gallons per day, and 200,000 cubic feet even though the man's holding just touched the stream.

The Minister for Works: Why should he get water for nothing where we establish works?

Hon. J. MITCHELL: The works might not involve a large expenditure. However, the Minister had promised to inquire into the clause and recommit it if the right to 4,000 gallons was not fixed absolutely whether the frontage was a mile or not.

The Minister for Works: A man who has only a chain or two of frontage should not get 4,000 gallons.

Hon. J. MITCHELL: Would the Minister see that the owner of land abutting on a stream would have sufficient water for his own purposes?

The Minister for Works: Yes.

Hon. J. MITCHELL: The Minister could not supply information as to what 200,000 cubic feet meant.

The Minister for Lands: It is 1,250,000 gallons.

The MINISTER FOR WORKS: It would be seen that the 4,000 gallons applied to a mile of frontage and the 200,000 cubic feet to the three acres.

Hon. J. MITCHELL: The Minister was asked to see that every man abutting on the stream had sufficient water for domestic and other purposes. This he might not get with a small frontage. A man might only touch the stream for 100 yards.

The MINISTER FOR LANDS: The depth of holding could only be double the width. There would not be extraordinarily long areas with narrow frontages.

Clause put and passed.

Clauses 18, 19—agreed to.

Clause 20—Applications for Licenses:

Hon. J. MITCHELL: The Minister might explain Subclause 2, and particularly the meaning of "prescribed form" as applied to the issue of licenses.

The MINISTER FOR WORKS: The fees had to be fixed by regulations and in those regulations the license fee would be prescribed.

Hon. J. Mitchell: What conditions would the Minister set up?

Mr. McDONALD: An instance might be given of a bore which was put down in the Roebourne district with Government assistance, and owing to no supervision having been exercised by the Government it was put down in such a position that the travelling public had no access to the water, although the stipulation was made that they should have the use of the water. That bore was near Maud's Landing. The hope was expressed by the people in the district that the convenience of the travelling public should be insisted upon and not the convenience of the pastoralists.

The MINISTER FOR WORKS: The hon. member must recognise that conditions would have to be prescribed. It would be useless to give one or two, and the hon member himself stated that he could not expect all the conditions to be given. Conditions must exist and they had to be prescribed and the power must exist to prescribe them and to vary them if it was found that the first set of conditions did not fit in with the public policy.

Clause put and passed.

Clauses 21, 22—agreed to.

Clause 23—Control of artesian wells:

Hon. J. MITCHELL: The Minister might explain the third paragraph which set out that when an artesian well was placed under the control of the board the Governor may reserve an area of at least 40 acres as the actual site of the well, and an area of at least 33 feet on each side of every drain connected with the well.

The MINISTER FOR WORKS: The object was simply to get the right to protect the drains. They were put in to convey water any distance and unless we took the right to reserve an area on each side, we would have no protection over the tanks. To get control it was necessary to take so much land on each side.

Hon. J. MITCHELL: It was not necessary that this should apply to bores

put down in settled districts, in which cases the 33 feet area would not be required. The matter might be looked into.

The MINISTER FOR WORKS: In accordance with the request of the hon. member the matter would be looked into. The object of the provision was, of course, the protection of the channels and drains. However, he would have the question inquired into, with a view to seeing whether a reduced area would be sufficient, in settled communities at all events.

Hon. J. MITCHELL: It was satisfactory to have this assurance from the Minister. Presumably if the Minister decided not to vary the provision, the clause would be re-committed in order that opportunity might be given of further discussing it. Would the Minister give that assurance? . . . . .

The Minister for Works: I am not going to re-commit the clause just because you think it necessary.

Hon. J. MITCHELL: That being the case it would be necessary to fight the question out now. The provision was just as unreasonable as was the Minister.

Mr. McDONALD: At first blush it appeared that there would be a certain difficulty in resuming 33 feet on each side of a drain. On pointing this out to the Minister on a previous occasion he had learnt that the provision had nothing to do with existing drains, except indeed such a drain were taken over by the board, in which case full compensation would be paid. Where it was decided by the board that the water was necessary for irrigation the board would have the right to resume 33 feet on either side of the water, in order to ensure its cleanliness and freedom from pollution. Nothing but a desire to delay matters could account for the attitude taken up by certain hon. members.

The MINISTER FOR LANDS: The action of the member for Northam (Hon. J. Mitchell) was clear proof of the desire of that hon. member to prevent a general scheme of irrigation being brought into effect. If the hon. member had taken the slightest trouble to acquaint himself with the results of artesian flows he would know that these streams were frequently of great width, and that it would be necessary to protect the water from danger of pollution. Surely there could be no serious objection to the provision.

Hon. J. MITCHELL: If the Minister for Lands had but read the clause he would have seen that this land must be taken, whether it was required or not. . . . . .

The Minister for Lands: No, the provision is merely permissive.

Hon. J. MITCHELL: It was doubtful if the Minister had ever seen a bore. At Busselton there was a bore, and the drain which carried off the flow was a very small one indeed. An eight-inch bore would need a very moderately sized drain indeed.

The Minister for Lands: What about a bore giving three million or five million gallons per day?

Hon. J. MITCHELL: The drain would not need to be much larger than the Goldfields Water Scheme main.

The Minister for Lands: If the water is allowed to flow naturally it will spread out a good deal.

Hon. J. MITCHELL: But a drain would have to be cut. If the Minister took 33ft. at Busselton, he would take in the bowling green and a good deal of the recreation reserve in connection with one small drain that emptied into the sea.

The Minister for Works: We would not take it.

Hon. J. MITCHELL: The Minister must have some reserve for his drain and according to the Bill it must be a chain wide.

The Minister for Works: You are quoting a place where we will not take the water.

Hon. J. MITCHELL: The Minister would be well advised to take power to take less than 33ft. on either side of a drain. That width might be suitable in the North-West but not in the South-West. Would the Minister promise to re-commit the Bill?

The Minister for Works: If it is necessary.

Hon. J. MITCHELL: If the Minister found it necessary to retain 33 feet on either side, would he recommit the Bill and give the Committee an opportunity to further discuss the clause?

The Minister for Works: I will not promise to recommit the clause unless I think an alteration is necessary.

Mr. HARPER: A width of seven yards would be quite sufficient for any irrigation channel. Millions of gallons of water could be carried along a channel 3ft. wide and 3ft. deep. It would not do to allow water to find its natural course, as one member had suggested, because it would spread and quickly diminish. If, on the other hand, pipes were used a very small width would be required. He knew of one scheme for carrying water from the Hotham Valley to Bunbury, where the pipe line was taken through wheat fields and it would not be at all reasonable to reserve a chain of land for that pipe. A track was all that was required. It would be impracticable to allow water to run over sand because it would sink into the sand and would not travel any distance.

The MINISTER FOR WORKS: If after making inquiries from the expert officers of the department it was found the clause wanted amending, it would be recommitted for that purpose, but it was unreasonable to ask him to recommit the clause whether he thought it necessary to do so or not. On the face of it, the clause did appear to require amendment, but if there was a proper explanation of its provisions, it would stand in its present form and it would be waste of time to recommit it.

Hon. J. MITCHELL: The Minister's assurance that if he found he could do with a less width than 33ft. on either side of a drain he would recommit the clause was all that was asked for.

Clause put and passed.

Clause 24—agreed to.

Clause 25—Waste of water of artesian wells:

Mr. MALE: The Minister might direct the partial closing of a well. If under his instructions a well was damaged or was rendered useless, would he pay compensation?

The MINISTER FOR WORKS: The clause gave the right to direct the partial closing down or such other precautions to prevent waste. The owner could protest and have an inquiry. If precautions were taken to prevent waste he could not imagine that anything would happen. The hon. member evidently wanted the Government to take the responsibility if, by some extraordinary circumstances, a well ceased to flow. He was not prepared to take the whole responsibility.

Mr. HARPER: The authority for closing a well or bore was too arbitrary. Great responsibility attached to such authority. In many cases the effect would be serious and the bore might be lost. Investigations should be made in the first place.

The Minister for Works: That is what the clause says, so that we shall do no injustice.

Mr. HARPER: The Crown should be liable.

The Minister for Works: Your argument is that a man can waste as much water as he likes, and yet he takes no responsibility.

Mr. HARPER: Inquiries should be made into the nature of the ground before such steps were taken.

The Minister for Works: That is exactly what the clause provides.

Mr. HARPER: Considerable experience of this class of work convinced him that a thorough investigation should be made before anything of this description was attempted. If that had to be done, nothing further was to be said.

Mr. McDONALD: It was not unusual to have bores capped to diminish the flow, and the bursting of water through the ground as a result, was not a frequent occurrence. Cox in his work dealing with artesian bores in Queensland said—

> Probably the most successful stations when result and cost are taken together were Coreena, Aramac, and Stainburn, the two latter being to quote the words of a well-borer,

"able to run creeks on their stations at pleasure."

In Queensland it was quite an ordinary occurrence to tap bores and regulate the flow. Dr. Mead, the Victorian expert, mentioned among the essentials which should be provided for by legislation—1, a record of all existing bores; 2, measurement of their pressure and flow; 3, regulation of the flow to prevent waste. In California any artesian well which was not capped or furnished with such mechanical appliances as to readily and effectively arrest and prevent the flow of water was declared a public nuisance, and the man who allowed it was guilty of a misdemeanour. In Colorado wells had to be capped and failure to comply constituted a misdemeanour. In Michigan no greater flow was allowed than would pass through a one-inch pipe. In Utah, South Dakota, and Nebraska, as well, an inch pipe was the extreme allowed. Dr. Mead said that California was dotted with the remains of works which at one time were used in irrigation, but owing to the waste of water these works had become useless. The clause was designed to meet such cases, and other provisions protected the owners of the wells. It was nothing but factious opposition, and a desire on the part of the Opposition to see Friday morning that instituted all this speechmaking.

Mr. MALE: The clause gave the Minister considerable power which should be exercised with great care and caution, and he resented Mr. McDonald's closing remarks. There have been instances in this State where, owing to the control of a bore, it had ceased flowing. There was an instance at Guildford, and another bore had to be put down.

Mr. McDonald: They have had all that experience in America, and still the inch pipe remains.

Mr. MALE: Property should not be damaged and perhaps rendered useless to please the whim of a Minister who had not sufficient knowledge.

Hon. W. C. Angwin (Honorary Minister): Will not the officers have sufficient knowledge?

Mr. MALE: The Minister had all the power.

The MINISTER FOR WORKS: The difficulty was recognised in that a special proviso necessitated an inquiry being held, so that full investigations would be made to protect the owner in case injury was done to his well. It was not likely Government officers would ask for something to be done to endanger a well or cause unnecessary expense. . . . . .

Clause put and passed. . . . . .

Clause 26—agreed to. . . . . .

Progress reported.

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*House adjourned at 11·22 p.m.*

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# Legislative Council,

*Tuesday, 8th October, 1912.*



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

## HIGH SCHOOL ACT AMENDMENT BILL SELECT COMMITTEE.

*Change of Member.*

Hon. J. E. DODD (Honorary Minister) moved—

*That the Colonial Secretary (Hon. J. M. Drew) be discharged from the select committee on the High School Act Amendment Bill, and that the Hon. J. F. Cullen be appointed a member of the said committee in his place.*

The Colonial Secretary had desired that Sir Winthrop Hackett should act on the committee in his (the Colonial Secre-