

Act. Paragraph 2 of Schedule 2 of the existing Act says:—

On all settlements of property made by any person the trusts or dispositions of which are to take effect after his death (save as excepted in Section 7), duties at the same rate as in this schedule above provided.

That is the settlement section. Paragraph 2 of Clause 96 of this Bill reads:—

The property given or accruing to any person under any deed of gift shall, in the event of the death of the donor within six months from the date of the deed of gift, be chargeable immediately after such death with succession duty according to the scale in the second schedule, except in cases of death by accident.

Of course that does not apply to a deed of gift which is made in consideration of marriage, or in consideration of a binding contract to be performed. That is it applies only to a purely voluntary gift. I beg to move the second reading.

On motion by MR. HIGHAM, debate adjourned.

ADJOURNMENT.

THE PREMIER: The House would, he hoped, excuse him if, after producing four Bills this evening, he asked it to adjourn. It was somewhat early, but he had had rather a long task. Members had a lot of work to take home, with the Bills they had before them. He moved that the House do now adjourn.

Question passed.

The House accordingly adjourned at 8:38 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 11th August, 1903.

	PAGE
The President, Congratulation	405
Questions: Dividend Duty Act	405
Perth Council, Site for Town Hall	406
Bills: Early Closing Act Amendment, second reading concluded; in Committee	406
Bread Bill, in Committee, reported	410
Noxious Weeds, in Committee to Clause 6, Inspectors	414
Prisons Bill, in Committee, reported	416
Pharmacy and Poisons Act Amendment, second reading; in Committee, reported	417

THE PRESIDENT took the Chair at 4:30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: By-laws of Albany Municipality.

Ordered, to lie on the table.

THE PRESIDENT—CONGRATULATION.

THE COLONIAL SECRETARY (Hon. W. Kingsmill): Before the business of the House is proceeded with, I desire to take the opportunity of expressing a feeling of gratification, in which I am sure every member shares, at seeing you, Mr. President, recovered from your recent illness and once more occupying your position in the House.

MEMBERS: Hear, hear.

THE PRESIDENT (Hon. Sir George Shenton): Mr. Kingsmill and hon. members, I thank you heartily for your kind expressions towards myself. It was a source of great regret to me that I was prevented from taking my accustomed seat in Parliament, and more especially that I was not able to preside over the Joint Sitting held for the purpose of electing a Federal Senator. However, I am now restored to health, and I hope to be enabled to occupy the Presidential Chair during the remainder of the session. (General applause.)

QUESTION—DIVIDEND DUTY ACT.

HON. F. M. STONE asked the Colonial Secretary: 1, If the Crown Law Officers are of opinion that under Section 7 of the Dividend Duty Act, 1902, a company is carrying on business in this State and elsewhere by reason of such company having a head office outside this

State, and that Subsection (4) of Section 6 of the said Act does not apply. 2, If the Government intends to enforce against such companies payment of duty on profits and not on dividends, or 3, If the Government intends to amend the Dividend Duty Act, 1902, so that the fact of any company doing business in this State shall not, by reason of its having a head office outside Western Australia, be deemed to be carrying on business elsewhere.

THE COLONIAL SECRETARY replied: 1, The Attorney General is of opinion that the question should be referred to the legal advisers of any company interested. 2, The question will be considered when it arises. 3, The Government sees no need to make any such amendment.

QUESTION—PERTH COUNCIL, SITE FOR TOWN HALL.

HON. A. G. JENKINS asked the Colonial Secretary: 1, If it is the intention of the Government to obtain the ratification of Parliament to the proposed gift of the Perth City Police Court offices and land to the Perth Municipal Council. 2, If not, why not.

THE COLONIAL SECRETARY replied: The matter is under consideration.

HON. A. G. JENKINS: A peculiar way to answer a question.

EARLY CLOSING ACT AMENDMENT BILL.

SECOND READING.

Debate resumed from 28th July.

HON. J. W. HACKETT (South-West): In congratulating the House, Mr. President, on the circumstance that you once more occupy the Chair, I trust it will not be forgotten that in your absence your place was filled as well as it could be by our friend the Chairman of Committees (Hon. H. Briggs). His occupancy of the Chair was, perhaps, not equal to yours; but it was as near to that as a member may aspire to attain. The Bill now before us is a short one. It is one of those measures which the social conscience not of this Ministry but of a previous Ministry thought fit to present for Parliamentary sanction. The measure, it was found, did not work with that

satisfaction which the Government, in their sanguine moments, anticipated. The Act, however, owing to circumstances I need not dwell on, lapsed; to my great regret. An Early Closing Bill was tacked on, if I may use the expression in its formal sense, to a Factories Bill; and at a late stage of last session I made an endeavour to save this part of the Bill by moving that it be taken separately. However, the lateness of the session prevailed, and the Bill was lost for that year. I welcome the introduction of the present Bill, which, although small, deals with a subject than which it would, in my opinion, be difficult to discover one on which there exists greater difference of opinion, or which concerns interests more complex. In the present case we have to deal first of all with the public, whose interests ought to be considered paramount. A feeling seems to be arising that the public are the persons to be least considered, and that the purveyors to the public are those whose interests should prevail. In this case there is peculiar difficulty in satisfying all classes and all persons. To begin with, after the public are satisfied or dissatisfied, as the case may be, we have to deal with the question of the shops; and the shops question itself is affected by a farther consideration. It is easy to talk of large shops and small shops. We all know what a large shop is, and what a small shop is; but what is of more importance than the relative size of the shops is the position of the town in which they are situated, and the position of the shops in that town. In other words, a town of small dimensions, such as most of our country towns are, finds, when a Bill of this kind becomes law, that the measure applies to practically the whole town. I do not say that there are not small shops and large shops in the country towns, but the question arises whether the small shop carrying on exactly the same business as the large shop, though on a smaller scale, should be allowed an advantage not conceded to the large shops. Turning now to the larger towns, such as Perth, Fremantle, and Kalgoorlie, one finds that the main differentiating rule is one of distance from the centre. That rule has been followed in various countries as the principal rule; and it is according to the distances of the shops

rather than according to their respective size, and with proper consideration of the size of the town in which they are situated, that the early-closing legislation of many countries is mainly shaped. In this connection—to take an instance which may be pardoned me, as it is one concerning which I have obtained special information, Bunbury—I have to point out that any one can in a quarter of an hour walk from one end of Bunbury to the other. Practically, the shops to be considered small shops, or the shops referred to in the schedule, are shops to be found side by side with shops which will be closed. It has been pointed out by the traders and commercial section of the town that this Bill practically makes a rule in favour of certain shopkeepers which does not apply to other shopkeepers, and which at once creates a diversity of interest and may be used so as to become exceedingly unfair to one side or the other. The majority of the shopkeepers in that town are entirely in favour of this Bill. Their language about it is so complimentary that I will not repeat it, because it is not well for the Colonial Secretary to have too good a conceit of himself or his Government; but at all events the majority are quite satisfied with this Bill. There is, however, a minority, and this Bill is brought in largely to protect the interests of minorities, to protect those of the minority which believes that provisions in favour of small shops should be passed into law. The information on that point has been indorsed by another town in my province. I need not go through all these particulars, except to say that their views run on very much the same lines—that the size of the town ought mainly to be considered, and that in a town of the size of Bunbury or similar towns practically the one law should apply all round, unless injustice is to be done. These matters will be considered no doubt when we get into Committee; but it seems to me that the remedy for this complexity, the best means of smoothing away these difficulties, is to give still larger powers to the Governor-in-Council than he is invested with under this Bill. In other words, I should like the Governor-in-Council not only to say what districts or towns the measure is actually to apply to, but I should like to see power given to

him to split up these towns into sections so that this Bill could apply in one part and not in another; or at all events certain of these provisions or certain regulations could be applied, if the measure would be really likely to do an injury or hardship where the great majority principally in the central part of the town feel that the Act is all in their favour. No doubt when we come to the clauses dealing with the power of the Governor-in-Council, all these matters will be fully considered, but for the rest it seems to me that this Bill is working on the right lines. There are a few matters which I shall draw attention to at a later stage where improvement seems to me possible; but on the whole the effort is a good one to prevent undue terms being exacted from the employee, not exactly by employers but by the pressure of the public and by the circumstances of trade, and at the same time considering that class which, though a smaller class, is to my mind almost of greater importance to the country, the class of people who are engaged in small businesses. That is the spring of much of the enterprise of the place, and it is from thence that we get that perpetual succession of generations which carry on the policy and work of the country and of its various constituencies. Moreover, the capital employed by even these small persons—I am not speaking of shopkeepers more than any others—the capital employed by all those persons in smaller businesses, when aggregated will be found most probably to be greater than that employed by those in a larger way of business. Therefore I say we should be especially careful to do no injustice, to work no hardship to any of those who may endeavour to eke out their means of livelihood (often a scanty one) by such little odds and ends as they can manage to secure by trade, either in shops or other directions. I trust the House is fully seized of the importance of attending to the interests of those persons in small ways of business as much as to the interests of employees in the larger shops, who have a very much better time of it in every respect. I do not propose to occupy the time of the House longer, except to make this early announcement to my hon. friend sitting opposite (the Colonial Secretary), that he must be prepared—I hope he has

a succession of skins for use in this House—he must be prepared to put on his very thickest skin when we come to deal with the drafting of measures. I do not know what the feeling of another place is, but I know the feeling of this House has been anything but one of satisfaction. It seems to me that the person, the committee, or the Cabinet occupied with the drafting of these Bills must have too much in their hands. A number of these clauses surely ought not to have been sent to this House in the shape in which they come before us.

THE COLONIAL SECRETARY: Which ones?

HON. J. W. HACKETT: I will mention one or two in a moment, or rather I will reserve them with one exception to the Committee stage. That is only a sample, I am afraid, of what the hon. gentleman will hear a good deal of before the session closes, unless there is a very great change in the mode of drafting. I am sure I am speaking with the general sanction of the House in making that statement. I will give one instance. The hon. gentleman will recollect that while he was explaining this Bill in moving the second reading, I asked: was there any precedent for Clause No. 1—I believe it is Clause No. 1, but it may be Clause No. 2 in a bracket or something of that kind. The hon. gentleman said there was no precedent and that it was constitutional. My point is this. If this clause is in force in regard to other Acts or countries, then we shall be able perhaps to understand, by looking at the context, why it is introduced; but it seems to me that if the second paragraph of Subclause 2 of Clause 1 of the Bill is passed as it stands neither the public, the Judges, nor anybody else will know exactly where they are. The first part of Subclause 2 seems reasonable enough. It goes on to say:—

The remaining sections of this Act shall be inserted in the principal Act, and when so inserted shall respectively bear the numbers set against each of them—

We do not know what “each of them” refers to.

in square brackets, and the existing sections of the principal Act, so far as may be necessary—

Those words “so far as may be necessary” upset the whole thing. It may be

either a universal rule or not adopted at all.

THE COLONIAL SECRETARY: Oh no.

HON. J. W. HACKETT: The hon. gentleman may be able to explain it:— shall be renumbered, and the references to the same be amended accordingly.

I venture to say that if a practitioner were to stand up in the Supreme Court and endeavour to call attention to the section of an Act which has been amended and afterwards re-amended and possibly re-amended again, he would get into such a mess of sections and brackets, square brackets and round brackets, under this subclause that he would not know where he was. If the hon. gentleman will draft a dummy Bill and amend it with another dummy Bill, and again with another dummy Bill or even with a single amending Bill, and endeavour to use those terms, he will find himself involved in chaos. However, we will go into that when we amend the Bill. Perhaps the hon. gentleman will pardon me for observing that it is not sufficient for one to say the matter is perfectly right, but we want to have it explained and have it shown that it is right. The hon. gentleman will understand that I am making no reference to him personally, but we are so accustomed to a gentleman sitting stolidly in that seat gazing benevolently at members in this House when putting questions or endeavouring to elicit information from the member representing the Government in the Council, that we look with a little suspicion at the hon. gentleman's expert eye. I am sure my hon. friend will forgive me for making these remarks.

THE COLONIAL SECRETARY: Certainly.

HON. J. W. HACKETT: In the meantime I have great satisfaction in approving of the principle of this Bill, and I trust it will be spared the fate of its predecessor of last year, and that when passed it will be found to exercise lasting good to all classes.

HON. E. M. CLARKE (South-West): With the exception of a few trifling amendments it is my intention to support this Bill. As Dr. Hackett says, the proposal was wrecked last session because a Factories Bill was tacked on to it, and the Factories measure combined with the Early Closing measure placed us in a dilemma. One difficulty, for instance,

was this. An inspector would go into a factory under the Factories Act and say one must do so and so; "You must have all these sky-lights taken down and green blinds put up," and that sort of thing. The next thing would be that an inspector under the Municipal Act or under the Health Act would come in and say the whole bag-of-tricks was wrong. If that Bill had been carried, two girls could not have started working to make dresses or do anything of that sort without being constituted a factory. That, however, is almost ancient history. I certainly shall support the Bill, one of the reasons being that I recognise that the Early Closing Act, as we have it, is somewhat oppressive on the small man. I know there is a feeling abroad that any person, it matters not who it is, has only to get a few little stores to start storekeeping, and that he can supplement his income by that means. Apparently people think they have nothing to do but to start stores, and that they will make an absolute success of the business; but that is an error. It seems that when there are no ordinary customers in the bush to sell to, they will have to set to work and sell to each other. In my opinion this Bill is a very liberal one to the small shopkeepers, and I think it will meet the views of this House. It is my intention to criticise it when we get into Committee.

SIR E. H. WITTENOOM (North): I have listened very carefully to the lucid explanation of the measure given by the leader of the House, and I have also listened to the remarks of the other members who have spoken. As far as I gather, the object of this Bill is to limit the hours of work of the employees. I do not know that the Bill has been brought forward in the interests of the small shopkeepers or any other particular class. According to its title it is an Act to amend the Early Closing Act. I take it that the object of the Bill is to enable shops to close early so that the employees will not be working too long. Under this presumption I am of opinion that the legislation is in the wrong direction altogether, and that instead of limiting the hours of certain shops and discriminating between large and small shops, it would have been much simpler to have brought in a Bill limiting the hours people could be employed, simply

stating that no persons after certain hours could employ other people, but that they could work themselves as long as they liked. In that way we should have got over the objections brought forward by Dr. Hackett, who says the large shopkeepers are complaining that they have to shut their shops whilst smaller ones can be kept open alongside them. If my suggestion were adopted, anybody could work as hard as he liked, and I think most people will agree with me that legislation should be in the direction of inducing people to develop their energies and their work as much as possible and not limiting employment. The tendency of the day is, I am afraid, too much in the direction of limiting employment. We find that in other countries, particularly America, every inducement is given to men to work long hours, to do the very best they can, to introduce the best machinery, to assist in helping and finding out the best labour-saving appliances, so that as much as possible can be done. But here, unfortunately, the tendency is to limit the work, and I think that legislation in the direction I have mentioned would have been far better than the original Bill introduced. However, it is a matter entirely for those whom it particularly affects, and as no representations have reached me in any shape or form that there are any objections to this Bill, I shall have no alternative but to vote for its second reading.

THE COLONIAL SECRETARY (in reply): I have but few words to say in reply, and those are mainly words of thanks to hon. members generally for the way in which they have received the Bill. I desire also to offer some little explanation on the point raised by Dr. Hackett. Before doing so, however, I wish to express to that hon. member my hearty gratitude for the little lesson he was good enough to give me in respect of my future deportment, and to assure him that I shall endeavour to cultivate as quickly as possible that attitude which he describes as the fitting one for any person occupying the position I at present have the honour of holding in this House. At the same time, I greatly regret that the hon. member should have had to pass such censorious remarks concerning my predecessors in office. I trust at all

events that, when my term of office is over, Dr. Hackett will be able to say, whether or not I succeeded in elucidating the business before the House, that any failure was due to no lack of effort on my part. Now as to the point raised in connection with Clause 1 of the Bill, I have to say that I look on that clause as a most important and a most beneficial departure. In future instead of having to look through perhaps half-a-dozen Acts all repealing one another in order to ascertain the position of the law, under the system here proposed all legislation on the one subject will be comprised within one Act. The point raised by the hon. member as to square brackets and round brackets applies simply to the numbering of the clauses. Matters will not be complicated in the least if a section changes its number perhaps once in every four or five years. I see no difficulty in that connection. Hon. members will observe that Clause 4 of the Bill is numbered 5 in square brackets. The additional number denotes that in the copies of the principal Act which will be printed after the Bill has been passed—I hope it will be passed—this clause will stand as Section 5. I see no great complexity in that, nor do I think that it is likely to lead to confusion on the part of persons looking through legislation in future. On the contrary, I claim that in conveying this amending Bill to the Act sought to be amended, a valuable step is taken. Instead of having to pull down two volumes of Statutes in future when one wishes to see the effect of amendments on the parent Act, one need refer only to that parent Act in order to ascertain exactly what has been done in the matter. With regard to the words quoted by Dr. Hackett, “and the existing sections of the principal Act so far as may be necessary,” I think they are plain enough. We see that Clause 4 of the Bill will appear as Section 5 in the principal Act to be printed hereafter. Sections 1, 2, 3, and 4 of the principal Act will not need to be renumbered. Clause 4 will stand as Section 5 of the principal Act, and the subsequent sections will be renumbered. I do not think that there is anything complicated in this; nor do I anticipate that the difficulties which the hon. member fears in the understanding

of these measures will arise to a great extent.

HON. J. W. HACKETT: What I wanted to know is, whether a subsection in those words has been tried elsewhere?

THE COLONIAL SECRETARY: I will look up the point raised by Dr. Hackett: I cannot answer offhand. Hon. members will see, however, from what I have said, that the convenience to the public will be such that even if the expedient has not been tried elsewhere, it is well worth trying here.

HON. G. RANDALL: It will be tried only after the reprinting.

THE COLONIAL SECRETARY: Yes. Some one must make a forward step sometime; and if this experiment turns out the success I anticipate it will prove, then I think Western Australia is to be congratulated on affording a new method towards accomplishing something urgently needed in all countries, namely the simplifying of legislation to the general public. I again thank hon. members for their reception of the Bill.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1.—Short title:

HON. J. W. HACKETT: The leader of the House would do well to agree to progress being reported at this stage. It was to be feared that the six lines of Clause 2 would not attain the object aimed at. Hon. members should be given time to understand what was at the bottom of those six lines.

HON. F. M. STONE: It was difficult to see how the proposal of this clause would be carried out in practice. Sets of the Statutes had been distributed throughout the State, and the Government had a stock on hand. Did the Government propose to call in those sets and reprint? [THE COLONIAL SECRETARY: No.] In that case, the clause would afford no convenience.

On motion by the COLONIAL SECRETARY, progress reported and leave given to sit again.

BREAD BILL.

IN COMMITTEE.

Clauses 1 to 11—agreed to.

Clause 12—Justice or Inspector may enter premises, etc.:

HON. C. A. PIESSE moved that in line 1 the words "justice of the peace or" be struck out. It was extremely undesirable that justices of the peace should act in the capacity contemplated by the clause: they ought not to perform the duties of police constables.

THE COLONIAL SECRETARY: It was to be hoped that the amendment would not be persisted in. The clause was purely permissive. The hon. member, however, appeared to regard it as mandatory.

HON. G. RANDELL: The clause was quite optional.

THE COLONIAL SECRETARY: Yes. By limiting, in this connection, the powers of persons who were justices of the peace and who interested themselves in the general welfare, Mr. Piesse would deal a blow at the Bill. No justice of the peace need regard the clause as mandatory. It was quite permissive. He did not think there was any necessity for striking out the words. He hoped that after this explanation the hon. member would withdraw the amendment. It was not intended to impose a duty which would be irksome on any justice of the peace. A justice of the peace would use absolutely his own discretion as to whether he entered these bakers' shops or left them alone. One did not think that any justice of the peace, when he knew that it was not mandatory, would object to have this privilege, one might almost call it, if he wished to exercise it.

HON. C. A. PIESSE: By this clause as it stood, a justice of the peace would be put on a par with a constable or an inspector, and he trusted that members would have the words to which he referred struck out. It was not right to make a detective of a justice of the peace.

HON. F. M. STONE: Under this measure a justice of the peace would have power to go into a shop and test weights. Then a prosecution might take place, and that justice might sit on the Bench. Perhaps it would be inadvisable to give that power to justices of the peace. The principle now proposed had not been admitted in any other Act that he knew of, and it was better to keep justices of the peace clear altogether and let them decide on the evidence brought forward. Justices of the peace were only human after all. They might go into a shop and

get an idea into their heads, and when a prosecution took place they would judge upon that idea and not upon the evidence brought before them.

HON. W. MALEY: Possibly a justice who had made an inspection might not sit on the Bench which decided the case, but we had one or two instances of errors by justices of the peace only lately, and any safeguard we could make so that justice should be administered reasonably and fairly should be made.

HON. J. A. THOMSON: The principal object of the Bill was to protect the public against dishonest traders. In how many country districts would there be an inspector at hand where it was believed the public were being imposed on by the dishonest trader? It was not in his opinion intended that a justice should be a busybody going about looking for these cases. In country towns the public looked to the police constable as their protector. He would not be prepared to say a police constable should have power to go into a baker's establishment or flour-miller's place unless he had some other authority. It seemed the clause was intended to provide that if a constable had such information laid before him it would be his duty to go to the nearest magistrate or justice of the peace to get authority to go and visit the establishment where he believed there was a breach of the law.

THE COLONIAL SECRETARY: It was desired to make this Bill as completely operative as possible. It was also recognised that to have assistant inspectors who would embrace the whole of this State would be more expensive to municipalities and to districts outside municipalities than would be acceptable. We had in our midst a body of men, justices of the peace, who were chosen for that position principally on account of their discretion, and if a gentleman chosen had not enough discretion to exercise the permissive powers which were conferred on him by this Bill, a great mistake must have been made at the time he was appointed. One could not believe that there were many justices who had such a lamentable lack of discretion. He hoped members would not strike a blow at the usefulness of this Bill by striking out the words referred to. The work of the inspectors would be very much lightened,

and we should have in districts where we might not have normal inspectors men of discretion, who would use the power wisely and well.

HON. A. G. JENKINS: In Victoria power was given to justices. If the Bill contained such a provision as that proposed, a single justice would not, he thought, have jurisdiction in a case like that referred to.

HON. C. A. PIESSE: There would be always inspectors where there were large numbers of people. Therefore town justices would be clear from this work, whereas the country justices would be turned into police constables. He trusted that the Committee would be with him. The wording of the clause in the Victorian Act was entirely different.

HON. G. RANDELL: Presumably the hon. member did not object to justices of the peace authorising police constables?

HON. C. A. PIESSE: Not at all.

HON. G. RANDELL: Then one did not see on what grounds the hon. member based his objection, when we remembered that the work was only optional.

HON. C. E. DEMPSTER: A justice of the peace ought not to be called upon to act as a detective. He remembered a case where a justice of the peace inspected a locality, ordered a prosecution, and sat on the Bench. He continually did so in defiance of his (Mr. Dempster's) objection, and it was not until he gave notice that he would move the Supreme Court to set aside the decision that he dropped it. There was nothing to prevent a justice, if he had some spite against a man, from making an inspection, ordering a prosecution, and sitting on the Bench. If what was proposed was to be done for the protection of the public, why was not the same power given to justices in relation to every other Act of the kind. It was far better that a justice or judge should go into Court unbiassed. Although a justice who made an inspection might not sit alone on the Bench, he would influence the other justices.

HON. F. M. STONE: Why should we depart from a principle adhered to in all other Acts? We had to protect the seller as well as the consumer, and we ought to see that a man was not punished wrongfully.

HON. E. M. CLARKE: The clause was bad in so far as it related to justices of the peace, for its effect in that connection was likely to be mischievous rather than otherwise. It was all very well to say that a justice of the peace would not adjudicate on a case after he had entered and inspected the defendant's premises, but a position in which such a thing was possible ought not to be created; moreover, a justice of the peace ought not to be made an inspector or a detective. We had to remember, also, that in this State every third man was a justice of the peace.

THE COLONIAL SECRETARY: In connection with this clause there appeared to be a tendency to over-estimate the quantity and to under-estimate the quality of justices of the peace in this State. Mr. Stone had asked for a reason for the insertion of the words "justice of the peace" in the clause, and the reason was that by conferring such power on justices of the peace we should add, not to the oppressiveness of the measure—it would not prove oppressive to anyone who traded honestly—but add to its effect by widening the sphere of its operation in permitting persons of discretion and good character, if they wished to do so, to aid in enforcing these provisions. The inclusion of justices of the peace in the Victorian Act was not so much an additional reason for their inclusion here, as an exemplification of the circumstance that other countries had found the provision useful. This was proved by their retaining it on the statute-book for so many years.

HON. E. McLARTY: There was no particular objection to the retention of the words "justice of the peace" in this clause. Small country towns in which inspectors could not possibly be appointed were just as much entitled to be supplied with wholesome bread as were large cities. The retention of the words constituted an additional safeguard for the public. He hoped that very few justices of the peace in this State would sit on a case after having taken an active part in initiating the prosecution.

HON. C. A. PIESSE: A compromise might be arrived at by letting the words "justice of the peace" follow "police constable." This question was not one of good bread or of bad bread, but of

whether justices of the peace should act as detectives.

HON. J. A. THOMSON: The two first lines of the subclause might be allowed to read, "any inspector or police constable authorised by a justice of the peace may, at any time, enter the premises," and so forth.

HON. J. W. HACKETT: In that case, the action of the inspector would depend on the authorisation of the justice of the peace.

HON. F. M. STONE: The words "any justice of the peace or" might be struck out, and "any police constable authorised by any justice, and any inspector," might be inserted in lieu.

HON. C. E. DEMPSTER: On first reading the clause he was disposed to take the same view as those who now objected, but on second thoughts he recognised that there was no objection to the provision as it stood. The clause would help to make the measure successful in its working, and it should pass as printed.

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

Ayes	6
Noes	16
Majority against			10

ATES.
Hon. T. F. O. Brimage
Hon. E. M. Clarke
Hon. W. Maley
Hon. C. A. Piesse
Hon. F. M. Stone
Hon. B. C. Wood (Teller).

NOES.
Hon. J. D. Connolly
Hon. A. Dempster
Hon. C. E. Dempster
Hon. J. M. Drew
Hon. J. W. Hackett
Hon. A. G. Jenkins
Hon. W. Kingemill
Hon. R. Laurie
Hon. W. T. Loton
Hon. E. McLarty
Hon. G. Randell
Hon. J. E. Richardson
Hon. J. A. Thomson
Hon. Sir E. H. Wittenoom
Hon. J. W. Wright
Hon. B. C. O'Brien
(Teller).

Amendment thus negatived.

HON. G. RANDELL moved that the words "and search," in line 2 of Subclause 2, be struck out; also that "and," in line 3, be struck out. He was certain it was not intended that power should be given to search any person.

Amendment passed, and the clause as amended agreed to.

Clause 13—agreed to.

Clause 14—No person to hinder search:

HON. A. G. JENKINS moved that after "shall," in line 1, "wilfully" be in-

serted. This amendment was agreed to last session, and he thought there was no reason why it should not be agreed to again.

Amendment passed, and the clause as amended agreed to.

Clause 15—agreed to.

Clause 16—No baking on Sunday:

SIR E. H. WITTENOOM moved that the words "on Sunday," after "sale," in line 3, be struck out, with a view of their insertion after "p.m." in the same line.

THE COLONIAL SECRETARY: As already pointed out, evidently a comma had been omitted. He had no objection to the amendment.

Amendment passed.

HON. A. G. JENKINS moved that the word "seven," in line 3, be struck out, and "five" inserted in lieu. As the clause stood it would be impossible for master bakers to supply bread in decent order and condition for Mondays, and it would mean that nearly every large baking plant in Perth would have to be duplicated. In the interests of his trade a baker would try to see that fresh bread should always be supplied. The workmen baked on Friday night, and they got Saturday to themselves and Sunday until 5 o'clock. That, he thought, was sufficient holiday. He did not believe the alteration proposed by his amendment was opposed by the trade itself. At any rate, this amendment was passed by the Legislative Council last session almost unanimously.

Amendment passed.

THE COLONIAL SECRETARY moved: That after "p.m.," in line 3, "on Sunday" be inserted.

Amendment (after several suggestions) passed, and the clause as amended agreed to.

Clauses 17 to 20—agreed to.

Clause 21—Bread, etc., on premises of baker to be deemed intended for human consumption:

HON. C. A. PIESSE: The clause proposed to deal with bakers only, and not with millers; but under it the carting away of damaged flour by a miller would render him liable to prosecution.

HON. J. W. HACKETT: No; it merely threw on the miller the onus of showing that he was acting innocently.

HON. C. A. PIESSE: Under this clause, no one would be able to remove

damaged flour for the purpose of destroying it or feeding it to pigs.

THE COLONIAL SECRETARY: The clause would not bear harshly, and no person conveying damaged flour for the purpose of destroying it, for example, need fear conviction. Such a person was under the onus of proving that he was removing flour for the purpose described, and such proof would form an absolutely good defence to a charge of exposing damaged flour for sale. Moreover, the facts would be so obvious to any constable or inspector that no prosecution need be feared.

HON. J. W. HACKETT agreed with the leader of the House. If these words were omitted, anyone would be at liberty to carry unsound or unwholesome flour anywhere without the slightest possibility of his being got hold of. If the words objected to were struck out, the whole clause might as well be struck out.

HON. C. A. PIESSE: So far, no complaint had been made in this State of the quality of flour supplied by the millers of Western Australia. It was absurd to suppose that any miller would risk his reputation and the capital invested in his business by supplying inferior flour.

HON. G. RANDELL: Clause 10 was the one which affected the miller. Perhaps Mr. Piesse's objection would be met by the insertion, in line 3, of the word "such" between "any" and "person."

HON. J. W. HACKETT: That would not do. This clause consisted of two parts. The first part dealt with bakers, confectioners, vendors of bread, and pastry cooks, and the second part extended the operation of the provision to all persons trafficking in bad flour.

Clause passed.

Clause 22—agreed to.

Clause 23—Offences to be prosecuted within three months:

HON. G. RANDELL: The time for action was too extended. He moved that in line 2 "three months" be struck out and "one month" inserted in lieu.

Amendment passed, and the clause as amended agreed to.

Clause 24—agreed to.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

NOXIOUS WEEDS BILL. IN COMMITTEE.

Clauses 1, 2—agreed to.

Clause 3—Interpretation:

HON. J. W. HACKETT: This clause departed somewhat from the practice in appointing a special Minister to take charge of the Bill. Obviously, of course, the measure would be administered by the Minister for Lands.

THE COLONIAL SECRETARY: Although the rule was as stated by Dr. Hackett, yet in various Acts a special Minister had been nominated.

HON. J. W. HACKETT: In more recent Acts.

THE COLONIAL SECRETARY: No; in old Acts. However, in any case the administration of this measure would so obviously fall within the province of the Minister for Lands that there could be no objection to mentioning the Minister in this definition.

Clause passed.

Clauses 4, 5—agreed to.

Clause 6—Inspectors may enter upon land to search for noxious weeds:

SIR E. H. WITTENOOM: Did this clause refer to Crown lands as well?

THE COLONIAL SECRETARY: Apparently, according to the wording. Crown lands were not specifically mentioned; but "occupier" would include any department of the Crown in occupation of the land. To be absolutely frank with the Committee, he did not think the clause would apply to what were known as waste Crown lands. For instance, supposing the Public Works Department were in occupation of a reserve, that department would, he thought, be bound under the present clause—of course he was speaking as a layman and felt somewhat diffident about his law—but he did not think that any land unalienated and not dedicated to any purpose would come under the operation of the clause. He would very much like to hear what some of the legal members of the Committee had to say about it.

HON. E. M. CLARKE: In these cases the Government were great transgressors. He had distinct recollection of an inspector being sent down to look at some noxious weeds in the streets at Bunbury. He (Mr. Clarke) treated the matter as a joke. At that time he was mayor. The inspector told him

there were certain plants in the locality, and he had them grubbed up, but told the inspector that if he wanted to see any stinkwort he would show him some. He was in a position to give the locality. Poison apple grew everywhere. The only case of Bathurst bur that he ever saw was that of some on ballast out of a vessel. Corporate bodies and roads boards were considerable transgressors in regard to noxious weeds, and it was absolute nonsense to send an inspector to demand that people grub up a bit of poison apple or something of that sort, whilst alongside him on the public road there were acres of it. If the Government wanted private owners to clear their lands of noxious weeds, they should clear their own land of them.

HON. J. W. HACKETT: All municipalities, including Bunbury, should be compelled to keep their town lands clean, and in town lands he included the roads. The worst offenders were often the municipalities. There was also the railway, whereby seeds of these noxious plants were scattered. The clause should be made more sweeping as regarded its scope and also in relation to the authority appointed to deal with this matter. If an inspector through friendliness, neighbourliness, or laziness refused to do his duty, there was no power under this measure to compel him to do it. There should be some power to compel an inspector to be put in motion if he refused or neglected to do his duty. If owners of private land had to keep their lands clear of noxious weeds, there should be power to compel the Crown or large corporate bodies or municipalities to keep their land also clean. If not, we might as well move that the Chairman leave the Chair.

HON. F. M. STONE: It seemed advisable that the Bill should be sent to a select committee. Certainly the Crown was not bound by it. Then there was a question whether streets in the municipalities would come under it; also roads boards and the railways. The measure as it stood would not be a cure for the evil which existed. Persons might clean their own land, but if the adjoining Crown lands were not cleaned, seeds would come from those Crown lands on to the private lands.

HON. C. A. PIESSE: It was understood by him—and other members had

the same impression—that provision would be made in this Bill to bring Crown lands under it. Otherwise it would be simply a waste of time to go on with the measure. If the Crown lands were not brought within its jurisdiction it would be most unfair, and it would be a waste of time to carry the Bill. Why should a small holding be brought under the measure, and the owner be subjected to the annoyance of inspection and the worry of cleansing the land, if just outside those lands Crown lands were perhaps infested more than his own?

HON. E. McLARTY: It would be manifestly unfair to give an inspector power to go to a private estate and order the cleansing from it of any noxious weeds, and if the owner were not prepared to do it, to put a man on to carry out the work at his expense, whilst at the same time there were noxious weeds perhaps on Crown lands adjoining this private property. One might go on everlastingly cleaning his land unless the adjoining land were cleaned also. Noxious weeds should be eradicated from Crown lands as well as from private property.

THE COLONIAL SECRETARY: With the remarks of the two members who had just spoken he agreed. It would be inequitable for the Government to insist on private persons clearing their ground whilst they did not clear their own land of noxious weeds. The provision would have to be not so much in the Bill as on the Estimates. It would be a very good thing to have the Bill referred to a select committee, if one could be certain that the committee would report fairly quickly. He was not prepared as Colonial Secretary to make any pronouncement which would bind hard and fast his colleague the Minister for Lands, but he believed the select committee could examine that gentleman and ascertain to what extent he was willing to carry out the provisions of this proposed Bill. A select committee would be a very good thing. If we could pass the Bill *pro formâ*, he would consent to its being referred to a select committee.

HON. W. T. LOTON: The leader of the House might give us an assurance that the Government were prepared to bring in a clause which would put the waste lands in the same position as the

alienated lands. If he did that, we could go on with the Bill.

HON. J. A. THOMSON: Not all waste lands, but lands adjoining settlement.

At 6:30, the CHAIRMAN left the Chair.

At 7:30, Chair resumed.

SIR E. H. WITTENOOM: This was a most important Bill. While it was highly necessary that noxious weeds should be eradicated and that steps should be taken in that direction as soon as possible, yet the provisions of the Bill were so far-reaching—in various respects, indeed, they were dangerous and liable to become expensive—that care and deliberation were required. In order to allow the Colonial Secretary to suggest some amendment by which the Government would be compelled to keep Crown lands in proximity to freeholds clear of weeds, and also for other reasons, he moved that progress be reported.

HON. C. A. PIESSE: Clause 7 might be postponed, and other clauses dealt with.

SIR E. H. WITTENOOM: Unless the Colonial Secretary were prepared with an amendment which would satisfy the Committee, the majority of members probably would not care to proceed with the Bill.

Clause postponed.

Progress reported, and leave given to sit again.

PRISONS BILL.

IN COMMITTEE.

Clauses 1 to 22—agreed to.

Clause 23—As to prisoners confined on civil process:

THE COLONIAL SECRETARY: In order to put absolutely beyond doubt the application of the provisions of this clause to persons undergoing confinement on civil process, he moved that in line 1, "without hard labour" be struck out, and "not being a fine or penalty for an offence" be added to the subclause. No alteration of the sense of the clause was involved in this amendment.

Amendment passed, and the clause as amended agreed to.

Clauses 24 to 26—agreed to.

Clause 27—Division of prisoners:

HON. J. W. HACKETT: What misdemeanant would be in the second division?

THE COLONIAL SECRETARY: The first division would include such offences as disturbing Parliament, offences against the Electoral Act, libel, and other kindred misdemeanours. All other misdemeanours would be in the second division.

Clause passed.

Clauses 28 to 35—agreed to.

Clause 36—Punishment for aggravated prison offences:

HON. J. W. HACKETT: The word "prescribed" appeared in Subclause 2. What did it refer to?

THE COLONIAL SECRETARY: There were certain conditions laid down in the Bill itself relating to the infliction of corporal punishment. He took it that the word "prescribed" related to those conditions, one of which had reference to the attendance of a doctor or surgeon.

Clause passed.

Clauses 37, 38—agreed to.

Clause 39—Hearing of complaints:

THE COLONIAL SECRETARY: It would be evident that at a penal outstation—say such a penal outstation as Hamel—it would be extremely inconvenient to have a complaint heard. It was proposed by the amendment on the Notice Paper to render it possible for such complaints to be heard in some other prison, so that a person without being out of custody could be removed from the place where the complaint was made to any other prison where it could be heard. With this object he moved that after the word "committed" in line 3, "or some other prison" be inserted.

Amendment passed, and the clause as amended agreed to.

Clauses 40 to 77—agreed to.

Clause 78—Saving of regulations as to tickets-of-leave:

THE COLONIAL SECRETARY moved that the words and "such regulations are hereby declared to be valid" be added to the clause. There seemed to have been in the past a good deal of uncertainty about the origin and legal status of these regulations, and in order to put that beyond doubt it was now proposed to declare them valid. They had been in force for a great number of years. They were in force now only as regarded those prisoners who were committed to gaol when those regulations

were in existence, and it was for the sake of those prisoners, and really for putting beyond doubt the validity of those regulations, that this amendment was moved.

Amendment passed, and the clause as amended agreed to.

Clause 79—agreed to.

First Schedule:

THE COLONIAL SECRETARY moved that after "6 and 7 Will. IV., c. 30," the following be inserted:—

4 and 5 Vict., No. 21: An Act to constitute the island of Rottnest a legal prison. The whole.—

This would have the effect on the 1st January, 1904, of abolishing Rottnest as a prison for aborigines. It had been a prison since 1841, and as it was wished to turn at all events some part of it—the greater portion of it—to other and pleasanter uses, it had been thought advisable to include in this Prisons Bill the repeal of the Act which constituted Rottnest a native prison.

Amendment passed, and the schedule as amended agreed to.

Second Schedule—agreed to.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

PHARMACY AND POISONS ACT AMENDMENT BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. W. Kingsmill), in moving the second reading, said: This extremely short Bill, to amend the Pharmacy and Poisons Act of 1894, is introduced with a dual object. The first object of the Bill is to move in the direction in which the Pharmaceutical Society of Western Australia have long been moving; that is, to obtain reciprocity between the various States of the Commonwealth in regard to the classification and the better ordering of the profession of chemists and druggists. The next object of the Bill is to provide that a wrong use shall not be made of persons unable to properly carry on business themselves as chemists and druggists by the lending of their names to other persons who are not really chemists and druggists, to enable them to carry on business. Again, a minor object is aimed at in Clause 4, which

contains certain provisions to take effect in case of the death or the bankruptcy of any chemist in business. I do not think there is a great deal to explain in the Bill. In Clause 2 the object of reciprocity is dealt with. Members will see that a certain provision is made for the registration of any man who for at least four years has served as an apprentice in the business of a chemist or druggist or pharmaceutical chemist in Western Australia. The words used to be "in the Australian colonies." This met with a great deal of objection in other Australian colonies by reason that they were afraid that their unsuccessful apprentices might come over to Western Australia and by virtue of their practically useless apprenticeship in the other States claim to be admitted to registration as chemists here. They have assured the Pharmaceutical Society in this State that if this State looks after its own apprentices without receiving apprentices from the other States, who can be dealt with in those States, they are perfectly prepared to enter into a reciprocal arrangement with us. By Clause 3, Section 38 of the principal Act is amended by striking out of paragraph (b) of Subsection 1, the words "a person or company," and in lieu thereof inserting in the clause as it will be when the amendment which is now on the Notice Paper is carried, as I hope it will be, "a company." Section 38 of the principal Act deals with certain exceptions to the passing of examinations, one of which would naturally be a company, because it would be scarcely fair to call upon the individual shareholders of a company who wish to carry on the business of chemists and druggists to pass certain examinations; nor, indeed, would it be fair to the Pharmaceutical Society to ask that the secretary or attorney of a company should pass such examination. An additional exception is made in the case of a person who takes possession of the stock-in-trade under a *bona fide* mortgage or other security and who carries on the business by an agent, manager, or servant who is a pharmaceutical chemist, so that the proper carrying on of the business is adequately protected by insuring that such a person shall employ a properly qualified chemist. The period of the carrying on of such business, for the purpose of selling the business as a going

concern the Bill proposes to limit to 12 months. Clause 4 provides that—

Upon the decease or bankruptcy of any pharmaceutical chemist actually in business at the time of his death or bankruptcy, it shall be lawful for his executor or administrator, or for the Curator of Intestates' Estates, or for the Official Receiver or trustee in bankruptcy, to continue such business . . .

It was proposed, as is now printed in the Bill, that after the word "business" the clause should proceed:—

for a period of six months, and for such farther period as may be permitted by the Board: provided that the business is conducted by a registered pharmaceutical chemist.

However, to give such an estate the benefit of adequate management, and also in order to allow plenty of time for the estate to be sold to best advantage, the Government propose, by the amendment which appears on the Notice Paper, to omit the words "for a period of six months and for such farther period as may be permitted by the board." In this case also, hon. members will note, provision is made that the business shall be conducted by a registered pharmaceutical chemist. Here again the interests of the public, who are the purchasers of the drugs, are safeguarded by the provision for the proper carrying on of the business. Clause 5 deals with an amendment of the Pharmacy and Poisons Act Amendment Act of 1899. As I shall explain in Committee all that is proposed is the rectification of a clerical error. I do not think I have any farther observations to offer regarding this little Bill, the second reading of which I move with much pleasure.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2—agreed to.

Clause 3—Amendment of Section 38:

THE COLONIAL SECRETARY moved that in lines 2, 3, and 4 the words "'a person or company,' and inserting in lieu thereof the words 'a company consisting of at least 20 persons'" be struck out, and "a person or company" inserted in lieu.

Amendment passed.

THE COLONIAL SECRETARY moved that in line 10 the word "six" be struck out and "twelve" inserted in lieu. As previously explained, this amendment

was designed to afford a person taking possession of a chemist's business a better opportunity of selling it as a going concern.

Farther amendment passed, and the clause as amended agreed to.

Clause 4—Provision in cases of death or bankruptcy:

THE COLONIAL SECRETARY moved that, in lines 5 and 6, "for a period of six months, and for such farther period as may be permitted by the board" be struck out. Executors, administrators, the Curator of Intestates Estates, the Official Receiver, or a trustee in bankruptcy would not desire to carry on a chemist's business for a longer period than that necessary to dispose of the business to advantage. The interests of the public were fully protected by the provision that a registered pharmaceutical chemist must be employed to carry out the practical work.

Amendment passed, the words struck out, and the clause as amended agreed to.

Clause 5—Amendment of 63 Vict., No. 36, s. 6:

THE COLONIAL SECRETARY: As previously explained, this clause was designed to correct a clerical error. The section to be amended read: "In any prosecution under Section 38 of the principal Act or Section 5 hereof." It should read "Section 4 hereof."

Clause passed.

Preamble, Title—agreed to.

Bill reported with amendments, and the report adopted.

ADJOURNMENT.

The House adjourned at 8-13 o'clock, until the next day.