MR. SPEAKER announced to the Council that the Address in Reply had been presented to His Excellency the Governor in accordance with the resolution of the House, and that His Excellency had been pleased to reply as follows:—

"MR. SPEAKER AND GENTLEMEN OF THE "LEGISLATIVE COUNCIL,—

"I receive with pleasure your cordial "Address in reply to my Speech, and I "trust to be enabled by your valuable "and ready assistance to effect a satis- "factory settlement of the many important "questions now claiming the attention of "the Governor and Legislature of the "colony.

"Government House, Perth, 28th July, "1885."

The House adjourned at one o'clock, p.m.

LEGISLATIVE COUNCIL,

Wednesday, 29th July, 1885.

Loan Moneys expended on Eastern Railway—Message (*No. 7*): *Report of Sanitary Commission*; referred to select committee—Explosives Bill: second reading—Brands Act Amendment Bill: in committee—Bush Fires Bill: in committee—Adjournment.

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

PRAYERS.

LOAN MONEYS EXPENDED ON EASTERN RAILWAY.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright), at the request of Mr. Shenton, laid on the table a return of loan moneys appropriated to and expended on the construction of the Eastern Railway, from January 1st to June 30th, 1885.

REPORT OF SANITARY COMMISSION (MESSAGE No. 7.)

On the order of the day for the consideration of this Message,

THE COLONIAL SECRETARY (Hon. M. Fraser) said the question of sanitation referred to in the message was unquestionably a very important one, and, as hon. members were aware, had been referred during the recess to a Commission, whose report the House was asked by the Governor to consider. He thought it would be well that the report, in the first place, should be referred to a select committee, prior to the House taking it into consideration, and, with that object, he would move that the order of the day be discharged.

This was agreed to.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) then moved that His Excellency's Message be referred to a select committee, consisting of Mr. Parker, Mr. Marmion, Mr. Randell, Mr. Brown, and the mover, and, with leave, Mr. Shenton, and Mr. Burt.

Agreed to.

EXPLOSIVES BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), in moving the second reading of this bill, said the Acts at present in force in the colony relating to explosives were Acts passed respectively in 1850, 1854, 1861, and 1871. Three of these Acts related exclusively to gunpowder, and the last Act related to explosives of all descriptions. In the year 1875, in England, a consolidating Act was passed whereby all the previous Acts there were embodied in one Act, and the same efforts were being made at the present time in some of the other colonies. For instance, in Victoria, during the present session, an Act would be brought in consolidating all previous provisions with respect to explosives. It was obvious that as population increased much more care was needed in the management of explosives; and he need hardly remind the House that, every year, science, although it added to our enjoyments and conveniences, added also to our dangers, because scientific men were continually discovering new modes of—he was going to say blowing us up, but perhaps that was hardly the right expression—but new

explosives were constantly being invented. Therefore it was obviously desirable we should guard against the danger which might arise from these inventions. There was another danger which unfortunately had arisen in England, and that was the danger caused by offences or crimes committed by reason of these explosive materials; and, in England, in 1883, most severe legislation was directed against crimes by explosives,—legislation of an exceptional character, whereby, if an explosion occurred, although no danger accrued, yet, if the intention was to damage, most severe penalties, little short of death, were provided. This colony was to be congratulated upon the fact that, he believed, so far as we knew, we had no such danger or possible danger to contend with, whereas in England these crimes had of late become too common. We had not in this colony yet been called upon—and he trusted we never should be called upon—to legislate against such offences; at the same time, it was very desirable we should have at our command laws that night arise from the nefarious manufacture, keeping, or conveyance of these dangerous materials. And he thought the Council would be of opinion that in adding fresh provisions for our safety in this respect we should endeavor to reduce the number of the Acts on our statute book. At the present time, as he had already said, we had four of these Acts; but if this bill passed, with such amendments in the course of its passage through the House as hon. members may deem desirable, we should have but one Act, which Act would embody our present views on the subject, instead of several Acts. With these few remarks, he might shortly state the scope of the bill. In the first place there was a rather full definition of the various terms used in the course of the Act. Then it was enacted, by sections four and five, that no manufacture of explosives shall take place except at a manufactory properly licensed. At present, he believed, there was no manufacturing of explosives in this colony, or, if so, it was to a very limited extent; but they hoped, as the colony progressed, that explosives like all other matters might be manufactured here. The next clauses, six and seven, provided that no explosives shall be kept, except at places licensed under the Act. Then the bill went on to provide the way in which these licenses shall be granted, and he might here say that a great many of these provisions were to be found in the Acts now in force, but they were modified to meet the present state of things. The bill went on to provide that certain care must be taken whenever explosives were being carried from place to place, by railway or otherwise, and also with respect to carrying explosives in coasting vessels. Then the bill re-enacted certain provisions whereby a search for explosives kept contrary to the Act might be made; and in clause 25 they had a new provision, and possibly it was in consequence of this new provision that the present bill was before the House. He thought when hon. members came to consider this clause they would see that it was a very useful provision. It was meant to give power to the Governor-in-Council, from time to time, as circumstances may arise, to say under what conditions certain explosives, which may not now be in existence but which may be invented from time to time, may be introduced into the colony, or whether in consequence of their dangerous nature they shall be prohibited altogether. Clause 27 and the next three or four clauses were taken from the English Act, and he thought it would be found that they were very useful clauses, because they allowed a search to be made for explosives, wherever they were supposed to be kept in contravention of the Act, and provided for their detention under certain circumstances. These clauses also provided for the inspection of boats, carts, and other vehicles carrying explosives, in order that the police under certain circumstances may have power to prevent any danger which they may apprehend. It would be found, he thought, that the public were fully protected under these clauses, for the police were authorised to take samples of any explosives or other dangerous substances. But it was only police of a certain rank who were allowed to act under these clauses, namely, officers ranking equal or superior to an inspector, sub-inspector, or sergeant. The police must pay for any samples which they took in this way for the purpose of examining whether they were of greater strength than the Act al-

lowed. Clause 31 also contained another useful power—the power of arresting without a warrant all persons who were, according to the statute, doing any act dangerous to the public, with any explosive. Under clause 32, if a person acted so negligently and recklessly as to endanger the life or the limbs of any of Her Majesty's subjects, such person would render himself liable to a fine, or imprisonment not exceeding six months. There was another clause which was new to this colony, providing that no conviction or penalty under this Act shall take away any other remedy which a person may have who has been damaged by the act of another person by the reckless use of explosives; that was to say, a person might sustain very serious damage, for which a fine or imprisonment would not be sufficient punishment, and the aggrieved party would, in addition to any penalty so imposed, have his civil remedy by an action at law. These were the principal provisions of the bill. It was a consolidating Act, as he had already said, and it brought together in the compass of one statute the various clauses which were in force in England, and which were attempted to be added to the statute books of the other Australian colonies, so as to bring legislation up to a level with modern science, and so as to protect society from the dangers which arose from the marvellous discoveries that were made in these days, and which put upon us grave responsibilities to protect ourselves against the dangers caused by the negligent or nefarious use of these discoveries. He might say before sitting down that, as the bill proceeded through its various stages, the Government were most anxious to receive suggestions from hon. members who were practically acquainted with the subject; and he thought, before the bill passed into law, it would be found to contain every provision and every idea which would commend itself to the judgment of the House.

The bill was then read a second time, without discussion.

BRANDS ACT AMENDMENT BILL.

This bill passed through committee, *sub silentio*.

BUSH FIRES BILL.

The House went into committee on this bill.

Clause 1 (short title) agreed to.

Clause 2 (Act to come into operation on December 1st, 1885) agreed to.

MR. RANDELL asked whether the provisions of the bill were intended to apply to Municipalities?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he apprehended the bill would apply to every place where there was bush to be fired.

MR. STEERE asked what was the intention of the Government with reference to ascertaining the various seasons of the year during which it would be requisite to prohibit bush burning, in the various districts of the colony.

THE COLONIAL SECRETARY (Hon. M. Fraser) said that steps had already been taken by the Government to elicit opinions on that subject from every district in the colony, by reference to the Resident Magistrates; and the Government would be fully informed as to the times of the year when the provisions of the bill should be enforced, in the several districts of the colony.

MR. STEERE thought the Roads Boards would be better authorities on the subject than the Resident Magistrates.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the Government had consulted the various Roads Boards.

MR. STEERE said he was chairman of one Road Board and he had never heard a word about the matter.

MR. CROWTHER said he had been chairman of another Road Board, and he had never heard a word about the matter.

Clause 3 (repealing present Ordinance); clause 4 (interpretation clause); clause 5 (Governor to fix prohibited times during which it shall be unlawful to set fire to the bush, within any district of the colony); clause 6 (*Gazette* notice):

Agreed to, without discussion.

Clause 7: "Every person who shall "wilfully or negligently set fire to the "bush within any district or part of the "colony during the prohibited times for "that district or part, shall be liable, on "conviction thereof before any two or "more justices of the peace, to a penalty "not exceeding £50. Provided that any "lawful occupier of land may set fire to "the bush on the land in his occupation "during such prohibited times if he shall "have previously given seven days' notice

"to all the owners or occupiers of lands "next adjacent to his said land, and if he "shall also take all such precautions as "shall prevent the said fire from extend- "ing to any of the lands adjacent, or "from damaging the crops, grass, trees, "houses, or buildings on any of the lands "adjacent:"

MR. WITTENOOM said that in the Victoria District this clause, which required the owner of a run to give seven days notice to all his neighbors of his intention to set fire to his run, would practically put a stop to burning altogether, owing to the changeability of the climate and the fickleness of the wind. The weather might be suitable for burning today, whereas seven days afterwards burning would be out of the question. He would move, as an amendment, that the words "not less than seven days" be inserted in lieu of "seven days."

THE ATTORNEY GENERAL (Hon. A. P. Hensman) pointed out that this would give rise to great uncertainty, and to much anxiety and suspense on the part of a man's neighbors. "Not less than seven days" might mean three months hence.

MR. WITTENOOM: Say "not less than seven nor more than twenty-one days."

THE COLONIAL SECRETARY (Hon. M. Fraser) thought it was highly desirable that neighboring runholders should know exactly when a man was going to set fire to his run, which would not be the case if this amendment were accepted. Neighbors would be kept in suspense for three weeks.

MR. LOTON pointed out that this notice was only required to be given when the burning was going to be done during the prohibited season. He therefore hoped the hon. member would see the wisdom of allowing the clause to remain as it stood.

MR. BROCKMAN said that the class of country which the hon. member for Geraldton referred to, coast country, would, in all probability, require to be burnt during the prohibited time, when fires would be most dangerous in other localities.

MR. MARMION thought that so long as neighbors received any notice at all, that would be sufficient, without requiring the notice to be given any particular number of days beforehand.

MR. HARPER said there were other practical difficulties to be considered in connection with this matter beyond the point raised. In the district which he represented, which was one of the most dangerous districts in the colony to meet fires, it was always the object of the person burning to set fire to his run when the wind was in such a direction as to cause the fire to get away from his run; while his neighbor might want to burn when the wind was in an opposite direction. It would be very difficult indeed to make any hard and fast rule as to the precise number of days notice that ought to be given, to meet all cases. He also noticed that there was no provision in the present bill (although there was in the Act now in force) for punishing aboriginal natives, or children under 16, for setting fire to the bush. In many parts of the colony the greatest danger from bush fires arose from the acts of natives.

MR. BURGES said it appeared to him that the most important point to be considered was to decide upon the proper time in each district when firing the bush should be allowed, and, if that time was sufficiently extended, he did not think any hardship was likely to arise. He thought, however, it would be well to extend the notice to 21 days; seven days would certainly be too short for the district where he resided.

MR. STEERE thought the intention of the clause would be entirely frustrated if the amendment of the hon. member for Geraldton were accepted. The object of the clause was to let one's neighbors know when it was intended to burn, so that they might be prepared to protect their own runs. If the notice were left to run for an indefinite time, how was a neighbor to know on what particular day a man's run was going to be set fire to, so as to be on the alert. It seemed to him that the difficulty might be got over by an amendment to this effect, that the person going to burn should give not less than 48 hours' notice of the particular day on which he proposed burning.

MR. BROWN said that 48 hours' notice would certainly not suit the Champion Bay District, even if they could rely upon the weather for that time. In a widely scattered district, it would be impossible for a runholder to acquaint all his neighbors of his intention to burn within 48

hours. What was aimed at by the hon. member for Geraldton was, he thought, wise, for no doubt it would do a great deal of good to the colony if owners of land were encouraged to burn their lands. There could be no doubt that land was deteriorating in many parts of the colony because it was not burnt, and, although it was very desirable they should guard against carelessness, at the same time he thought the amendment suggested by the hon. member for Geraldton might be accepted, especially when it was borne in view that this notice was only one of the precautionary measures which the man burning his land had to take, the penalty for neglect being very severe.

MR. STEERE deprecated the idea that it was desirable to give every encouragement to people to burn their lands, all over the colony. It might be a very desirable thing at the North, but it was quite the contrary in the southern districts of the colony; and, so far as the South was concerned, the Act ought to be made as severe as possible in that respect,—which showed the great difficulty of legislating on this subject.

MR. HARPER suggested that a short notice might be allowed in agricultural districts where the population was more concentrated, and a longer notice in the pastoral districts, where neighbors lived farther apart.

MR. RANDELL thought that the amendment of the hon. member for Geraldton would introduce an element of uncertainty, which would be very undesirable, as it would leave neighbors in a constant state of anxiety and suspense as to the time when a run was going to be burnt. Moreover, it appeared to him it would open the door for wilful injury of a neighbor's property, notwithstanding the provisions of the Act as to precautions, as it would be very difficult to prove the absence of precautionary measures. He thought it was impossible to legislate so as to meet all the varying circumstances of every district all over the colony.

MR. BROWN said although the law at present did not require this notice to be given, it was the common practice among settlers to work together, and, in a neighborly way, to assist each other, in these cases; and he had no doubt, if this bill were passed, there would be a still stronger desire on the part of runholders to coöperate.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) thought that in dealing with a measure of this kind they ought to look at the matter from their own point of view and also from their neighbors' point of view. He quite saw the force of the hon. member for Geraldton's argument as to the inapplicability of the clause to the part of the colony which he represented, owing to the variableness of the wind; but the difficulty that appeared to him was this,—that a man would have to repeat his notice until he got a right sort of day to burn. This would keep his neighbors in a state of uncertainty, and possibly put them to expense. The Act went this far,—that a man must take such precautions before burning as will actually prevent the fire spreading to a neighbor's run, otherwise that neighbor had ample remedy. It was very difficult indeed to meet the convenience of all parties. He should be sorry, being profoundly ignorant of the subject from a technical or practical point of view, to pit his opinion against that of experts; but, looking at the matter from a commonsense point of view, it appeared to him that a shorter notice and a smaller limit than that suggested would be desirable.

MR. MARMION said there was this to be considered—who was to prove that the required notice had been served, and who was it to be served upon, the owner of the land or the occupier? Again, what constituted seven days' notice? Seven days counting from the issuing of the notice, or seven days counting from the receipt of it?

MR. WITTENOOM, with leave, altered his amendment so as to read, "not less than five nor more than fourteen days."

MR. BROWN moved to report progress, which was agreed to.

The House adjourned at nine o'clock, p.m.