Legislative Council,

Tuesday, 12th November, 1907.

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

Prayers.

PAPERS PRESENTED.

By *the Colonial Secretary*: 1, Roads Act, 1902—Special By-Laws of Peak Hill Road Board. 2, Western Australian Government Railways—Rates and Regulations for conveyance of Passengers, etc., dated 4th November, 1907.

QUESTION—PINJARRA-MARRADONG RAILWAY PROJECT.

Hon. E. McLARTY asked the Colonial Secretary: Is it the intention of the Government to introduce a Bill during the present session for the construction of the first section of the Pinjarra-Marradong Railway? If so, when will such Bill be introduced?

The COLONIAL SECRETARY replied: Yes; as soon as the necessary information is available.

BILLS (2)—THIRD READING.

1, Sale of Government Property, returned with an amendment; 2, Workers' Compensation Amendment, transmitted to the Legislative Assembly.

BILL—MARRIAGE ACT AMENDMENT.

Second Reading.

The COLONIAL SECRETARY (Hon. J. D. Connolly) in moving the second reading said: It is not necessary for me to say much on this Bill, because it passed through this House last session through all its stages. Parliament was prorogued before it went through all its stages in another place; hence it was re introduced this session in the Legislative Assembly and is now sent to us for our approval. The amendments contained in the Bill are few. Provision is made extending the hours from 8 a.m. to 6 p.m. in which marriages can be celebrated, to from 8 a.m. to 8 p.m. A declaration having been made, a marriage can be celebrated by any minister or district registrar, and need not be celebrated before the particular minister or registrar before whom the declaration has been made. The Bill dispenses with the necessity for banns being published on three consecutive Sundays. In scattered districts such as we have here in this State services may not be held on three consecutive Sundays, so that it may be impossible to have the notices published on three consecutive Sundays; and the amendment provides that so long as they are published on three Sundays the parties can be married within three months after the publication of banns.

Hon. J. W. Hackett: The banns may be published on any three Sundays within the three months.

The COLONIAL SECRETARY: That is so. The time for posting notices on church doors is reduced to 14 days, and it is provided that after due publication of banns and the posting of the church notice the marriage can be celebrated anywhere within the State, and not necessarily in the original place of the publication, so long as the notice has been published in some district. Those are the chief provisions of the Bill. These amendments have been brought in at the request of the different churches. There is also Clause 17 which has been included at the request of the Jewish community, placing them on an equal footing with other denominations and allowing persons to be married by the district registrars. Under the existing Act Jews may only be married by their own rabbis. Under this Bill, if they desire, they may be married by the district registrar. The Bill is the same as it was when it passed this House last session with the exception of Clause 4. Some doubt existed as to whether the original Act included officers of the Salvation army. This clause

has been put in to make it clear that an officer of the Salavation Army is, for the purpose of the Marriage Act, a minister of the Gospel.

Question put and passed.

Bill read a second time.

BILL—PUBLIC HEALTH.

In Committee.

Resumed from the 7th November.

Clause 47—Powers of the Minister:

On motion by *the Colonial Secretary*, the clause was amended consequentially by striking out the words "that board" in line 7, and inserting in lieu "the Central Board or local authority."

Clause as amended agreed to.

Clauses 48 to 53—agreed to.

Clause 54—Borrowing Powers may be exercised by local boards:

Hon. E. M. CLARKE moved—

That the clause be struck out.

By this clause the nominee boards were given power to borrow money, to which he had decided objection. There was no objection to a municipal council or a roads board having borrowing powers, but a nominee board should not.

The CHAIRMAN: The hon. member could vote against the clause.

The COLONIAL SECRETARY: The borrowing powers of a local board were entirely new. The Committee had already agreed to allow municipal councils which were also health boards, and roads boards which were also health boards, to borrow, and this clause gave a similar power to local boards which were nominated. It was for the Committee to say whether nominee boards should have this power. Perhaps it was going too far.

Hon. J. W. Hackett: Under Clause 52 the Governor had to approve.

The COLONIAL SECRETARY: First there must be the recommendation of the Central Board of Health, and then the approval of the Governor-in-Council.

Hon. J. W. Hackett: In all cases there was an appeal to the Supreme Court?

The COLONIAL SECRETARY: Not under the rating clause; only under certain provisions of the Bill.

Hon. J. W. LANGSFORD: Was this a new provision? If it was an old provision, had any of the boards borrowed under it?

The COLONIAL SECRETARY: The borrowing power was entirely new.

Hon. R. F. SHOLL: This was a great power to give to a body nominated by a Government, and the board might have no interest in the locality for which it wished to borrow money.

The COLONIAL SECRETARY: The ratepayers had the power to vote.

Hon. R. F. SHOLL: That took the sting out of the provision, but still it was dangerous, and we should be careful before passing it.

Hon. J. W. HACKETT: Was it not a fact that the Minister or the central authority rarely exercised the powers necessary in cases of emergency, rendering it advisable to create local boards? The functions should be carried out by the Minister.

The COLONIAL SECRETARY: All the powers and duties of the local board were exercised by the central board at the present time, at the expense of the State. It was not intended that the central board could borrow money for any locality.

Hon. E. M. CLARKE: It was ridiculous to have two bodies governing one district. There was no such thing as a district over which there was not already a local body, either a municipal council or a roads board.

Hon. E. McLARTY: This provision would press heavily on sparsely-settled districts. The Health Bill was on all-fours with the Roads Act. It seemed impossible to frame a law that would apply to all parts of the State.

Hon. G. RANDELL: These powers were contemplated for any emergency. Perhaps the Colonial Secretary could explain under what conditions the powers would be exercised. One supposed it would be in sparsely-populated districts where it was not possible to elect a board. The powers were well guarded, because the appointment of the board had first to be recommended by the central board of health and then approved by the Governor. There was need for.

some provision, because districts should be protected from insanitary surroundings.

The COLONIAL SECRETARY: Clause 25 constituted every municipality a health board. Clause 26 practically did the same to every roads board which had not too large a district. Clause 27 provided for outlying roads board districts, each of which might contain several municipalities and other townships, and therefore several local boards. Hardship had arisen through local boards not having power to borrow. The Kalgoorlie and Boulder boards, on deciding to do their own sanitary work, found they could not use municipal funds for purely health purposes. The clause would empower them to borrow for such purposes. As the nominee boards wold be in none but sparsely-populated districts they would hardly initiate sanitary services on their own account. Although the provisions of Clause 54 were safeguarded, there was no objection to its deletion.

Clause put and negatived.

Clauses 55, 6, 7—agreed to.

Clause 58—Accounts and audit:

Hon. J. W. WRIGHT: The Perth City Council wished Subclause 2 deleted, on the ground that the local authority could manage its own financial matters, or at any rate the City Council could. He moved an amendment—

That Subclause 2 be struck out.

The COLONIAL SECRETARY: The subclause provided for sending to the Central Board an annual statement of accounts, and furnishing from time to time such information as the Central Board might require. Surely the central authority ought to know the exact position of the local boards, and whether these could carry out their obligations. One board in the metropolitan area, being advised by its officers that a sixpenny health rate was necessary, deliberately struck a twopenny rate, and soon found itself in a hopeless position. Under this subclause the Central Board could have interfered.

Hon. J. W. LANGSFORD: Subclause 1 provided that the accounts should be kept as directed by the Municipalities Act and the Roads Board Act, and Subclause 2 that the accounts sent to the Central Board must be in the form prescribed. Two forms might thus be insisted on.

The COLONIAL SECRETARY: It was not likely the Central Board would require municipal and roads board accounts in other than the statutory form. Moreover, the nominee boards would not be working under any Act.

Amendment negatived; clause put and passed.

Clauses 59 to 74—agreed to.

Clause 75—Filling up low-lying land:

Hon. J. W. HACKETT: Was there a right of appeal against all these orders by the local authority?

The COLONIAL SECRETARY: That did not appear. He would inquire.

Hon. R. F. SHOLL: The clause seemed highly dangerous. There was much low-lying land in Perth. The other day he received a notice to drain uphill. Where land sloped downward from the street the owner might be ruined if compelled to fill up to the sewer level. If this were necessary the community should pay. The clause should be struck out. The necessity for marginal notes to clauses was exemplified in this Bill, for members were unable to tell whether the provisions were copies of those in the Act or copies of sections of other Australian Acts. Members had frequently complained of the absence of marginal notes from Bills, and they should refuse to consider measures unless containing these details.

Hon. E. M. CLARKE: The clause was very dangerous, for under it if a municipal enginer thought fit to alter the levels of any of the drains he could do so and call on the owner of the land to alter the level in his property. A case of this kind occurred at present, where there was a heavy rainfall and the sewage as well as stormwater had to be dealt with. Under the clause an engineer could destroy the existing levels of the drainage, and raise the street drainage to such extent that persons occupying property would be thrown below the level, and could be ordered to fill up their land to the drainage level. He would vote against the clause.

The COLONIAL SECRETARY: The clause was taken from the Queensland Act, and was similar to Section 164 of the existing Act, the only difference being that the existing section went even farther than this clause. The Act had been in force since 1898, and no cases of hardship had been reported. Under that section there was no appeal from the action of the board; but under the clause there was an appeal first to the Central Board and then to the Minister or Governor-in-Council. Although the clause might inflict certain hardship in some cases, it was necessary that the board should have these powers, so that steps could be taken to prevent the health of a whole community being endangered by stagnant water remaining on low-lying ground.

Hon. R. F. SHOLL: A man should not be called on to drain the land as necessitated by the clause, if his property were in the same condition as when he purchased it from the Government. In such a case the work should be paid for from the general rates. A man might hold two or three acres of land, and it might cost him thousands of pounds to bring up the level.

Hon. R. W. PENNEFATHER: The general objection to the clause was that it did not express accurately the idea intended to be conveyed. Apparently it was thought that where land had an excavation in it which might become gradually a centre for the drainage of surrounding waters and sewage, such a condition if allowed to exist would be a big pest to the neighbourhood. It might also be urged that the man possessing the land had bought it with his eyes open, and had to take the risk of being forced to fill up the excavation. There were difficulties in connection with the clause, but unless the board had power to make an order in respect of natural or artificial holes in the ground, all the precautions taken outside would not prevent an epidemic from setting in. But the power under the clause was too great.

Amendment negatived; clause put and passed.

Clauses 67 to 77—agreed to.

Clause 78—Cellars, asphalting, etcetera:

Hon. R. F. SHOLL: In connection with this clause, difficulty would be experienced in Fremantle; for from his own experience he knew that most of the cellars there were under water at certain times of the year.

Clause passed.

Clauses 79, 80—agreed to.

Clause 81—Unauthorised building over sewers and under streets.

Hon. R. F. SHOLL: The local authority was given power to build sewers through private land, and now under this clause the owner could also be prohibited from building over those sewers. These powers if carried out might interfere with the value of the land considerably. It might be that the only place on which a man could erect a building on his land was over the sewer, but under the clause he would be prevented from doing so. There seemed to be no clause providing that compensation should be given to an owner whose property had become valueless owing to a sewer being run through it.

Hon. J. W. WRIGHT: There should be no difficuty in allowing people to build over a sewer, if proper safeguards were taken. This was done in other parts of the world.

Hon. G. RANDELL: The clause provided that a building could not be erected over a sewer unless with the consent of the local authority. A man should not be allowed to jeopardise the whole drainage system of the State by building over a sewer.

The COLONIAL SECRETARY: The Hon. Mr. Wright was correct in saying that in some instances no harm would result from allowing people to build over sewers; but, as the Hon. Mr. Randell had pointed out, by doing so people might endanger the whole sewerage system of the State. It did not follow that every person would be prevented, but the clause would only be brought into operation when the local board thought it would be dangerous to public health for the building to be erected. An appeal existed in all cases mentioned in this portion of the Bill.

Clause put and passed.

Clause 82—Injurious matter not to pass into sewers:

Hon. R. W. PENNEFATHER: It would save the time of the Committee if the Colonial Secretary pointed out the clauses in which there were alterations to the existing Act.

The COLONIAL SECRETARY: The next four clauses were taken from the Queensland Act, but generally speaking, this part of the Bill was governed by the existing Act.

Clause agreed to.

Clauses 83 to 122—agreed to.

Clause 123—By-laws:

Hon. E. M. CLARKE: Power to make by-laws was given to local boards in five distinct clauses. It would be preferable if this power were stated in one comprehensive clause, instead of in different places. Why could not this be done?

The COLONIAL SECRETARY: The Bill being divided into several distinct parts, dealing respectively with water pollution, buildings unfit for occupation, food, and so on, there must be power to make by-laws for each of these subjects; therefore power was conferred on local boards and the Central Board specifically to control the matter dealt with in each part of the Bill.

Clause passed.

Clauses 124, 125—agreed to.

Clause 126—Condemned buildings to be amended or removed:

Hon. E. M. CLARKE: There should be power for a direct appeal to the Minister. He had in mind a case in which considerable hardship was caused because of the arbitrary powers given to local health boards. He moved an amendment—

That the words "with the consent of the Minister" be inserted.

The COLONIAL SECRETARY: In the existing Act, power was given to condemn buildings; and this clause merely gave the added power to pull down any condemned building the owner of which refused to comply with an order for its removal. The amendment was unnecessary, as by Clause 47 the right of appeal to the Local Court was granted, also appeal to the Central Board and to the Governor-in-Council.

Hon. E. M. CLARKE: Notwithstanding Clause 47, the ordinary health inspector would look at the one section and not at the other. We should make it so clear that the ordinary individual could understand the law. The local authority should have power as long as it was exercised with discretion.

Hon. R. LAURIE: It was time full power was given to pull down condemned premises. Difficulty in this direction was experienced in Fremantle during the plague trouble. We should not have an appeal to the Minister in this matter. A person who had a grievance could obtain legal advice and appeal to the Central Board, and the general power of appeal to the Minister was given in another part of the Bill. We should not attach that power of appeal to every clause, or it would make the Bill confusing.

Amendment negatived; clause passed.

Clauses 127 to 140—agreed to.

Clause 141—Lodging-house keepers to report deaths:

Hon. E. M. CLARKE: The time in which deaths must be notified to the coroner was too short for country districts.

The COLONIAL SECRETARY: This clause was not likely to affect such districts. Lodging-houses would be mostly in cities.

Clause passed.

Clauses 142 to 150—agreed to.

Clause 151—Proof that building opened without consent:

Hon. E. M. CLARKE: Under the British law a man was innocent until found guilty. In this clause we condemned a man as guilty, unheard. The Central Board should be put in a position to show that notice was served on the owners of the building.

Hon. J. W. WRIGHT: Many buildings were put up without the knowledge of the Central Board. Plans were not submitted and the buildings were erected without permission, in which cases it was impossible to give notice.

Clause passed.

Clauses 152 to 180—agreed to.

Clause 181—Examination of milk:

Hon. E. M. CLARKE: This clause provided that it was an offence to sell milk drawn from a cow within ten days before or five days after calving. The period should be one month before calving, and four days afterwards would be sufficient.

Hon. E. McLARTY: This was a matter of importance. The person who drafted the clause had evidently little knowledge of this subject.

Hon. W. T. LOTON: Perhaps it would be well to extend the time to twenty or thirty days before calving. Members need not trouble about the question, for few cows would give any milk up to the time of calving.

Hon. E. M. CLARKE moved an amendment—

That in line 1 *of paragraph* (*b*) *of Subclause* 1, *the word "ten" be struck out and "thirty" inserted in lieu.*

The COLONIAL SECRETARY: There was no objection to the amendment.

Amendment passed; clause as amended agreed to.

Clauses 182 to 193—agreed to.

Clause 194—Sale of food and drugs not of the nature and substance and quality demanded:

Hon. E. M. CLARKE: What was the definition of "sells any compounded food or drug which is not compounded of the ingredients in accordance with the demand of the purchaser"?

The COLONIAL SECRETARY: This was a copy of Sections 45 and 46 of the present Act and of the English Act. It was quite clear.

Clause passed.

Clauses 195 to 211—agreed to.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at eleven minutes past 6 o'clock, until the next day.

Legislative Assembly,

Tuesday, 12th November, 1907.

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

Prayers.

PAPERS PRESENTED.

By *the Minister for Railways*: Rates and Regulations for the conveyance of passengers, stock, and parcels.

By *the Minister for Works*: Special By-laws passed by the Peak Hill Roads Board.

By *the Premier*: 1, Agreement and Reports in connection with the proposed purchase of the Denmark Railway and Estate. 2, Plans (3) showing classification of lands near Denmark and between Denmark and Bridgetown.

By *the Attorney General*: Papers *re* imprisonment of Joseph Chilman for Contempt of Court at Kalgoorlie.

QUESTION — DEBTOR IMPRISONED, A MEDICAL LEVY.

Mr. BATH asked the Attorney General: 1, Has his attention been drawn to the case of Mr. Joseph Chilman, who is undergoing imprisonment for contempt of court because of his refusal to pay an account for medical attendance for which he had made provision by payment to a medical levy? 2, If so, has any action been taken by the Crown Law Department in the matter?

The ATTORNEY GENERAL replied: 1, Yes. 2, The Resident Magistrate was asked to furnish a report on the matter, which I have laid upon the table of the House. As the report is somewhat long,