Katanning will equal those of Perth, and then I shall be glad to see the municipal subsidy diminished, for that will show how greatly Katanning has increased in size and wealth. On the whole, I think the Treasurer's proposals should receive earnest consideration at the hands of members. I am quite convinced that his scheme will be of great assistance to them, because it will relieve them from the responsibility of making recommendations to the Government, and will relieve the Government from the difficulty of dealing with such applications—a difficulty which I have personally experienced. Frequently applications appear to be just and fair, and probably the member making them believes they are; but he may catch the Minister on a day when he is in a more generous mood than usual, and may get a much larger grant than some unfortunate member who subsequently comes along representing another constituency which deserves quite as much and possibly more consideration, yet does not receive its proper subsidy.

THE TREASURER: It should not be left for the Minister to say.

HON. F. H. PIESSE: I agree. I say you are taking the right course, and I will give one good reason and an example. I was not the Minister who was responsible for the introduction of that, although it was suggested in my own time, but it was ultimately carried into effect during the work of the present Minister, that is with regard to the question of agricultural halls. Recently I have had three applications, and I did not even go to the department about them, nor did I write about them, but applied for the necessary forms and returned them to the people asking them to state what they proposed to do themselves, and pointing out the fact that, if they proposed to carry out such work and could assure the Government they would raise so much money, the subsidy provided under the regulations would be payable to them. That was a case where we were able, without trouble, to give them the opportunity of making the application which they felt they should make, and of obtaining the necessary help. It was a case of a similar character, only upon different lines from that now proposed. Anything we can do in this direction should be done; but of course it could not apply very well to a roads board district. You may have the different lengths of road, the opening up of the country, and different things to be carried into effect, making it difficult to apply the principle. But in municipalities the principle could be applied. At the same time it needs careful consideration as to its application. The system of paying the subsidy proposed is an excellent one, and one which no doubt should be thoroughly well received; but at the same time it is a question in regard to applications in the case of municipalities whether the order the Government have placed them in, from one to five, is such as the House is prepared to accept. I welcome the proposal of the Colonial Treasurer, for I think it is a step in the right direction, and one that will assist not only the present Ministry but any succeeding Ministry that has to deal with claims which we know are difficult to deal with, and which after all are not dealt with on that equitable basis which which should be laid down.

On motion by MR. DAGLISH, debate adjourned.

ADJOURNMENT.

The House adjourned at 10·32 o'clock, until the next day.

Legislative Council,

Thursday, 20th August, 1903.

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

PRAYERS.

QUESTION — PASTORAL LEASES (KIMBERLEY), MR. S. W. COPLEY.

HON. W. MALEY asked the Colonial Secretary: 1, If Mr. S. W. Copley

applied for 2,000,000 acres of pastoral lease in the Kimberley division, thrown open for selection on 1st July, 1902. 2, If the land applied for adjoined the reserve for breeding remounts, close to Napier-Broome Bay. 3, If any other person or persons made application for any portion of the said 2,000,000 acres. 4, The names and addresses of such other person or persons. 5, If the applications of Mr. Copley and those persons were referred to the selection board. 6, If the selection board gave a ruling, and in whose favour. 7, If Mr. Copley accepted with satisfaction the ruling of the board. 8, The names of those who accepted leases of portions of the said 2,000,000 acres agreeably with the decision of the board. 9, In whose or what name the leases thus granted now appear in the books of the Department. 10, If the Government subsequently threw open the Remounts Reserve of 1,000,000 acres. 11, If this was done to placate Mr. Copley. 12, If the Government arranged that the minimum area of leases should be 250,000 acres. 13, If the Government adopted the system of tendering for the reserve. 14, If these steps were taken to suit Mr. Copley. 15, If Mr. Copley or Copley & Co. applied for the whole or any portion of the reserve. 16, If Mr. Copley secured the land he applied for. 17, If the Government thereupon immediately arranged and numbered certain areas in the Kimberley division from 1 to 12, in lots reaching up to 450,000 acres each. 18, If the Government applied the tender system also to this land. 19, If Copley & Co. again applied for leases, and the result. 20, If the Government have dealt with any other lands in a similar manner since Mr. Copley's requirements have been met. 21, When the leases granted to Mr. Copley and others will expire.

THE COLONIAL SECRETARY replied: 1, Yes. 2, Yes. 3, Yes. 4, A. Cameron, Collie; R. T. Smith, Frank Johnston, John Rosco and William Parker, Henry Gunter, care of E. A. Griffiths, Kalgoorlie. 5, Yes. 6, Yes. (*a*) To grant S. W. Copley about 1,250,000 acres; (*b*) to grant R. T. Smith about 250,000 acres; (*c*) to grant F. Johnston about 250,000 acres; (*d*) to grant A. Cameron about 100,000 acres. 7, Mr. Copley withdrew his application, but subsequently applied for and obtained an area of 1,387,000 acres adjoining the late Remounts Reserve. 8, R. T. Smith, F. Johnston, A. Cameron. 9, A. Cameron and the Rhodesia Cold Storage and Trading Co., Ltd. 10, Yes, on 4th February, 1903. 11, No; it was done because the reserve was not required for the purpose for which it was set apart, and after communications with the Imperial and Indian authorities. 12, The reserve contained 1,030,000 acres; the block was divided in four parts, one of which contained 280,000, and the remainder 250,000 acres each. 13, Yes. 14, No. 15, Yes. S. W. and B. Copley applied for the whole area. 16, No. 17, No; but 2,507,000 acres, which had been applied for previously and refused, was subsequently dealt with in this way and advertised as open by tender on 6th May, 1903. 18, Yes. 19, No. 20, No. 21, 31st December, 1928.

CO-OPERATIVE AND PROVIDENT SOCIETIES BILL.

Read a third time and *passed*.

ADMINISTRATION (PROBATE) BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. W. Kingsmill), in moving the second reading, said: The Bill which I have to move the second reading of has been before both branches of the Legislature on more than one occasion. It is, as members who have taken the trouble to read it will find, a very technical measure and deals largely in legal terms and with legal procedure. Members, however, will note that it has a very large consolidating tendency, and they will see by reference to the first schedule of the Bill that no less than seven statutes are repealed by this measure, and one is repealed in part, so that the consolidating effect will have a very beneficial influence on our statute-book. Perhaps one of the most drastic alterations in our present legislation will be found in Clause 14 of the Bill, whereby certain provisions are made as to the disposition of the estate of a husband or wife dying intestate, and it is significant that with the march of progress in this Bill is expressed what has already become a fact, that the woman is placed practi-

cally on the same footing and on an equality with the man. Formerly, if a wife died, without farther question her estate was absorbed in that of her husband; but now it is proposed that both estates shall be treated in the same manner. It is also provided by this clause that an advantage of £500, as it were a start of £500, from the estate of the deceased husband or wife shall be given to the survivor of the couple. There is an alteration in the Bill in the scale of probate duties. Suffice it to say that by this Bill the probate charges, which it was felt were far too light in this State, have been raised to what may be looked upon as the average rate of probate duty throughout the Commonwealth. In some cases the probate duties are higher, and in some cases less. In Queensland and in certain States they are much higher than the probate duty provided for in the Bill. There is another point. Now it is proposed to charge probate duty on the estate, and not on specific legacies; and though this may not seem to make much difference on a first glance, in the long run it does. It is possible by subdivision into a number of legacies to render the duty on each legacy very light; but this will be done away with, and by charging on the estate, the true duty which should be paid will be paid. Again, it has been decided to alter the practice which at present obtains of estates under £1,500 value not paying probate duty. Now duty will have to be paid on whatever the amount of the estate is. Up to £1,000 the duty is 1 per cent., but provision is made that in cases where the estate is left to blood relations, they shall pay only half the percentage paid by strangers. There is one other alteration which deals with deeds of gift. Hitherto it has been possible, by a judicious deed of gift, to evade probate duty. It is proposed in the Bill that where a deed of gift is made six months before the decease of the donor, that deed shall be treated as a will, and the estate which has been passed to any person by such deed shall pay the probate duty just as if that estate had been passed by the usual testamentary instrument.

Hon. G. Randell: The period is now two years, is it not?

The COLONIAL SECRETARY: I do not think so: that would be more strict than the Bill. My authority is the Crown Solicitor.

Hon. J. W. Hackett: In what clause is the £1,500 exemption?

The COLONIAL SECRETARY: That exemption has disappeared. In the existing Act it is contained in the schedule, which provides that where the total value of the estate, after deducting all debts, exceeds £1,500 and does not exceed £2,500, it shall pay 1 per cent. The schedule of this Bill provides that estates not exceeding £1,000 in value shall pay 1 per cent.; but provision is made that where the estate is left to near blood relations—I think to parents or issue—such legatees shall pay only half the usual percentage. I do not suppose members will expect me to go through the measure clause by clause, seeing that it has already been before them several times, that they have no doubt carefully studied it, and that it bristles with legal terms which I should be somewhat diffident of attempting to explain, at all events in the presence of the legal members. The first important clause is 14, which, as I have said, provides that where the net value of the property of a deceased husband or wife does not exceed the sum of £500, the survivor shall be entitled to the whole of such property; and where the net value exceeds £500 the survivor shall get the £500 advantage, and also a half share of the residue where there is no issue surviving; but where there is issue surviving, the husband or the wife shall be entitled to a third share of the residue, the issue going to the remaining two-thirds. Clause 15 abolishes the courtesy and dower rights of husbands and wives respectively. In the following clauses up to Clause 22, there is no alteration of the present law. In Clause 22, as to duties payable by an estate, there is an alteration. I am informed it has hitherto been the custom to give what are, I believe, called specialty debts, some precedence over other debts; but it is now proposed that all unsecured debts shall stand on an equal footing. The succeeding clauses to 22 for several pages practically give effect to the existing law, in some cases with a little alteration of expression, but I am assured with no alteration of meaning. In Part III. we find two clauses dealing with foreign probates and administrations, which

clauses are designed to facilitate the giving effect—"sealing" is, I believe, the legal term—to probates granted out of Western Australia, and referring to property within the limits of this State. In the case of Part IV., which deals with the curator of intestates' estates, little alteration will be found, or practically no alteration, save in what is prescribed to be paid to the curator by way of percentage for what he realises upon the estates intrusted to his care. At present there is often considerable trouble in assessing what percentage shall be paid, first as to what I may term the book value of the estate, and secondly as to the value of that portion of the estate collected by the curator. Now it is proposed that the curator shall retain a commission of one per cent. on the total value of an estate, and five per cent. on all moneys actually collected or received; this of course to be paid into the Treasury for public use, as stated in the second paragraph of Clause 63.

HON. J. W. HACKETT: Six per cent. altogether.

THE COLONIAL SECRETARY: Yes. Following that clause we find a long succession of clauses which do not alter the present Act, until we come to Part VI., which deals with the duties on deceased persons' estates, and succession duties. We find in the interpretation clause that the term "Commissioner" —he being the person in whose hands is placed the collection and adjustment of these probate duties—is to mean "such person as may hereafter be appointed Commissioner of Stamps, and until such appointment is made the Master of the Supreme Court." It has been thought that should a commissioner be appointed under our Stamp Act—though I understand there is no immediate intention of appointing such a person—he would be an eminently suitable officer to carry out the duties pertaining to this part of the Act; but until he is appointed those duties will, as at present, devolve on the Master of the Supreme Court. The principal alterations made by this Bill in the existing Act are contained in the schedule. At present, estates under £1,500 do not pay probate duty, but the Government see no reason why they should not; so the limitation is abolished, and the new provision which I have mentioned is made. Clause 86, which prescribes the duties payable by an executor or administrator, is taken from South Australian legislation, except that the duties are, as I have said, proposed to be payable on the estate itself, for the reason I have given, and not upon the individual legacies. In Clause 94 will be found the provision to which I have alluded with respect to settlements and deeds of gift. I am advised by the Crown Solicitor that duties are now charged on settlements, but not on deeds of gift. Mr. Randell is possibly thinking of that fact when he refers to the two years' limit at present in force. Of course, probate duty is not proposed to be charged on marriage settlements, or on settlements for valuable consideration; but Clause 96 provides that a deed of gift which is executed six months or under prior to the decease of the donor shall pay probate duty as if such deed had been a will in the usual shape and form. For several pages following we find clauses which are the same, in effect at all events and in many cases in wording too, as the Acts by which these matters are at present governed. In Clauses 117 and 118 members will notice that provision is made for adjusting any differences which may arise between the commissioner who is to receive probate duties and those who have to pay them; and it will be found that where too little duty has been paid, power is given to get the rest of it, and where too much has been paid there is power to make a refund.

HON. G. RANDELL: That is rather surprising.

THE COLONIAL SECRETARY: It is somewhat unusual. I think this last clause must have escaped the eye of the Treasurer, for I am sure he would have strenuously objected. An important and useful clause, 129, will be found in Part VII., and it provides for the disposition of money lying in any bank, when such money is the property of a deceased person, if no probate or letters of administeration be produced to such bank within three months of the death of such person, and no notice in writing of any will be given to the bank. Under the Post Office Savings Bank Act there is at present power to deal with such

sums of money, and the Government have been requested by the various banks in the State to give to them the same power as is now possessed by the manager of the Post Office Savings Bank, namely that any bank may, after notice in writing to the curator, pay such sum of money to any person who appears to the satisfaction of the manager to be the husband, widow, parent, or child of such deceased person. This, I take it, is with the object of clearing accounts; and members will observe that it is almost a self-sacrificing step on the part of the banks. The other clauses of the Bill do not contain anything new, or any alteration of the existing law. I may say I have been informed that the administration of the estates of deceased persons in this State is in what may be termed an almost nebulous condition; that the law directly dealing therewith is practically embodied in a few sections of an Act known as the Supreme Court Ordinance, 1861, which members will find referred to in the schedule; and where these rules do not apply it is usual for the Supreme Court and for the administrators of estates to work on a system of analogy, gathered from the English text-books and what may be termed almost unwritten law. It is recognised to be a most unsatisfactory state of affairs; and it is with the object of definitely fixing what rules shall guide the procedure in this State as in other States of the Commonwealth that the Bill is introduced. I am aware there has been in the past some little disagreement between the two Houses with regard to a clause in the Bill, and on two occasions that disagreement has led to practically the wrecking of the measure, and putting off the rendering more definite of rules under which intestate estates may be administered. Whatever course may be adopted, it will be a great pity if the Bill is wrecked for the sake of one little clause. I hope members will think that point over, and will perhaps, if they will be kind enough to do so, forego their inclination, so that we may put on the statute-book a Bill that will have nothing but a good effect on estates of deceased persons in Western Australia. I have much pleasure in moving the second reading.

SIR. E. H. WITTENOOM: Could not the Government make that little concession?

HON. S. J. HAYNES (South-East): I have pleasure in supporting the second reading of the Bill. I think it is a measure that is greatly needed at the present time, and, judging from the schedule at the end of the Bill, such a measure will assist practitioners very materially. At present it is very cumbersome to arrive at the law in respect of administration, and, as the leader of the House has stated, we have to rely in some instances on English practice, especially as to the rules. As to Clause 14, that is an innovation—I think not an unwise one—of allowing £500, or such other sum as members may think expedient, in favour of the husband or wife. I think it is an equitable provision. At present in many instances it means breaking the law. The widow has taken out administration; bondsmen have been obtained for the due administration; the widow gets the estate in her own hands, and she has to use the money for the support of herself and children. When the children come of age she has spent the money; she has broken the law; but she has brought up her children and has expended the money in necessaries. The bondsmen escape, for they know the money has been spent by the mother, and they know the mother would be in difficulties as well as themselves. With respect to Clause 129, I think that is a wise provision. It is practically allowing deposits not exceeding £50 in any bank to be paid to the widow. At the present time if small estates are proved the bulk of the money is eaten up, so to speak, in costs and charges, however small they may be, and the costs are disproportionate. I understand from the leader of the House the Bill is practically the same as has been before members on one or two occasions previously. Therefore when I say I support the measure I take it on that assumption, subject to the clause referring to commission. On previous occasions the Bill has been lost by reason of the House attempting to place on the statute-book a provision for the payment of commission to executors. That provision is on the statute-book of South Australia, and I believe of Victoria and of New South Wales. I do not know about Queensland. I think it a very proper and right provision. As it is now, teastors, by reason perhaps of want of thought,

and in some cases from mean motives, do not make proper provision to pay executors for the trouble which they go to. Persons who have had anything to do with estates know that if no provision is made to pay them for their services, all they can claim is the money that they are out of pocket: they cannot claim one penny in payment for their services. In administering complicated estates people have to undertake duties, which very often they do out of respect to a deceased person, at great loss; and if an executor makes a mistake the beneficiaries under the will, in many cases, are only too ready to take action against the executor, putting him to great expense and trouble. The provision I refer to ought to be on the statute-book, as executors are entitled to payment for their services. Why the other House opposes such a provision I cannot say. The only conclusion I can come to—I do not know that this is the reason—is that it is feared the Bill will be forming a monopoly for a registered company or a trustee company to administer the estates. That is wrong, for the reason that there are many persons who prefer a company to an individual, for a company does not die, and people consider they have great protection under a company, although it may be more expensive. But some trustees think that companies of this nature are not elastic enough. Executors can take certain risks that are judicious for the benefit of the estate; therefore a large number of testators prefer to appoint persons in whom they have confidence to administer estates in preference to a company. If a testator, by reason of carelessness or anything else, does not pay the executor the law should step in. I trust provision will be made in this direction at an early date, for no company will have a monopoly. At the same time, while thinking strongly in that direction and knowing that this Bill has passed the House on two previous occasions, as far as I am concerned I shall support the Bill without this provision, unless some member brings up a clause with respect to commission. Rather than wreck the Bill, I would like to see it go through in its present form, because it will not only be a benefit to the profession but to the general public at large.

On motion by Hon. F. M. STONE, debate adjourned.

AUDIT BILL.

IN COMMITTEE.

Resumed from 19th August.

Message from the Legislative Assembly received and read, agreeing to an amendment suggested by the Council.

Clause 48—Governor may exempt certain accounts from detailed audit:

THE COLONIAL SECRETARY: Last evening a message was sent to the Assembly suggesting that in this clause the words "Legislative Assembly" be struck out, and "Parliament" inserted in lieu. The clause inadvertently provided that certain reports should be laid before the Legislative Assembly: the Council suggested that the reports be laid before both Houses. The Assembly had agreed to this suggestion.

Clause, as amended by the Assembly, put and passed.

Preamble, Title—agreed to.

Bill reported, and the report adopted.

THE COLONIAL SECRETARY: In order that another place might as soon as possible be advised that we had agreed to this Bill, he moved—

That so much of the Standing Orders be suspended as will permit of the Bill being now read a third time.

HON. J. W. HACKETT: Why? It was desirable to look into several clauses of the Bill.

THE COLONIAL SECRETARY: That being so, he would not press the motion.

Motion withdrawn.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Report on Gaols and Prisoners, 1902.

Ordered, to lie on the table.

ADJOURNMENT.

THE COLONIAL SECRETARY: Printed copies of the next two Bills on the Notice Paper not having come to hand, it was impossible to proceed with their second reading; but during the adjournment which he was about to ask for these would be distributed to members for perusal. He moved that

the House at its rising do adjourn till Tuesday, the 8th September.

Question passed.

The House adjourned accordingly at 20 minutes past 5 o'clock, until the 8th September.

Legislative Assembly.

Thursday, 20th August, 1903.

THE SPEAKER took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the MINISTER FOR RAILWAYS: Return showing locomotives running on Government railways; moved for by Mr. Bath.

Ordered, to lie on the table.

QUESTION—HARBOUR TRUST, REPORTS, ETC.

MR. HASTIE asked the Premier: When he would lay upon the table of the House (in accordance with the Act passed last session)—1, The half-yearly report of the Fremantle Harbour Trust; 2, A copy of the Trust's recommendations of proposed alterations in the Harbour; 3, The report of the late Engineer (Mr. Leslie) on the proposed Harbour alterations.

THE PREMIER replied: 1, This has been done; 2, These are being considered by the Trust in consultation with the Engineer-in-Chief; 3, This is under consideration, and is now before the Executive Council.

AUDIT BILL.

COUNCIL'S SUGGESTED AMENDMENT.

Message of the Legislative Council, suggesting amendment in Clause 48, now considered.

IN COMMITTEE.

Clause 48—Line 44, strike out the words "the Legislative Assembly if Parliament is," and insert the words "Parliament if."

THE COLONIAL TREASURER moved that the amendment be agreed to. Clause 48 was an exact copy of a section in the New South Wales Act (he thought Section 54), but the Government saw no objection to agreeing to the request of the Council. The clause would then read, "provided that a statement as to such exemption shall be laid before Parliament, if Parliament is then sitting."

Question passed, and the suggested amendment made in the clause.

Reported with an amendment, the report adopted, and the Bill as amended returned to the Council.

CONSTITUTION ACT AMENDMENT BILL.

IN COMMITTEE.

Resumed from the previous Tuesday.

MR. HARPER in the Chair; the PREMIER in charge of the Bill.

Postponed Clause 51—Provision for disagreements between Houses as to Bills:

MR. ILLINGWORTH: It was to be regretted that the Government had seen fit to put this clause in the Bill. There was no necessity for it, and he did not know of any case where such a clause would be of value. We had gone on very well without any such deadlock clause. In the Australian States there had been only one serious deadlock. In Victoria feeling was intensely strong with regard to the rights of the Council and the rights of the Legislative Assembly, but there was a very general consensus of opinion when he was there that this kind of deadlock clause was an irritant and not a help, and that it had a tendency, instead of causing the two Houses to endeavour to keep themselves in touch with each other and public opinion, to cause them to fall back upon this sort of safety valve, and throw the responsibility on the constituencies. He had no strong