

Kimberley district ready for market, but they cannot be got here. The want of facilities for shipping and other means of transit simply means that it costs more to bring stock from the Kimberley than it does to bring stock from the other colonies. When sufficient means of transit are provided we will not want to go outside our own colony for all the stock we shall require. For another thing, I do not anticipate that the other colonies will go on supplying stock as they have been. At the present time cattle are shipped here from Adelaide and other places and I am content that it should be so, in order that we can have cheaper meat than would otherwise be the case, but when we have opened up the means by which our own stock can be brought to market, the risks of shipping and the cost will prevent the continuance of the importation of stock from the other colonies because of the competition with our own stock, which, as I said before, will be quite sufficient for the whole colony when facilities for bringing them to market are provided. I have nothing more to say at the present stage, Mr. Speaker, excepting to express my thanks to hon. members for the generous way in which they have received the Bill.

Motion put and passed.

Bill read a second time.

#### EXPENDITURE FROM LOANS AND REVENUE UPON RAILWAYS AND ROLLING STOCK.

MR. ILLINGWORTH, in accordance with notice, moved for a Return, showing,—

1. The total cost of all Government Railways now completed, inclusive of stations, etc.
2. The total cost of all Rolling Stock to date.
3. The total amount expended out of Loan Funds on Railways and Rolling Stock.
4. The amount (if any) expended on Railways or Rolling Stock out of General Revenue.
5. The total amount of interest being paid on Loan moneys expended upon Railways and Rolling Stock.

Question put and passed.

#### ADJOURNMENT.

The House adjourned at 10.35 p.m.

## Legislative Assembly,

*Wednesday, 17th July, 1895.*

*Return showing times of arrivals and departure of Bunbury-Busselton trains—Laying of ships' moorings at Quindalup and Busselton—Works Department calling for tenders when funds not available—Neglect of s.s. Australind to call at Broome—Goldfields Bill: first reading—Applications for Homestead Leases—Construction of Mount Park Road—Agent-General Bill: third reading—Criminal Evidence Bill: second reading—Arbitration Bill: second reading; referred to Select Committee—Partnership Bill: second reading; referred to Select Committee—Justices Appointment Bill: in committee—Message from His Excellency: assent to Bills—Municipal Institutions Bill: second reading—Adjournment.*

#### BUNBURY-BUSSELTON TRAIN SERVICE.

MR. COOKWORTHY, in accordance with notice, asked the Commissioner of Railways why the Order of the House with reference to the laying of the return upon the table of the House showing the departures of the evening trains from Busselton, and the arrivals of the same trains at Bunbury, had not been fully complied with.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied that the full return would at once be laid upon the table, and he regretted that it had not, through an oversight, been done previously.

#### LAYING OF SHIPS' MOORINGS AT QUINDALUP AND BUSSELTON.

MR. COOKWORTHY, in accordance with notice, asked the Premier whether it was the intention of the Government to lay down ships' moorings at Quindalup and Busselton, and if so, when.

THE PREMIER (Hon. Sir J. Forrest) replied as follows:—

The Chief Harbor Master advises the Government that he does not recommend that moorings should be placed at these ports, inasmuch as there is ample anchorage ground, and shipmasters prefer to use their own anchors and chains where there is plenty of room to veer. Some years ago moorings were laid at Fremantle, Bunbury, and the Vasse, but were rarely used, for the above reason.

# ACTION OF WORKS DEPARTMENT IN CALLING FOR TENDERS.

MR. JAMES (for MR. GEORGE), in accordance with notice, asked the Premier,—

1. Whether he was aware that the action of the Public Works Department in calling for tenders for sundry public works—the money for which was not immediately available—was giving great dissatisfaction.

2. Whether he approved of this unbusiness-like procedure on the part of the Public Works Department.

SIR JOHN FORREST replied as follows:—

1. I am not aware of any great dissatisfaction.

2. I am not aware of anything to justify my expressing an opinion of disapproval in the matter.

# NEGLECT OF S.S. AUSTRALIND TO CALL AT BROOME.

MR. A. FORREST, in accordance with notice, asked the Premier, whether he was aware that the s.s. *Australind* called at Broome on the 10th July, without entering or clearing, or taking mails; and if such action on the part of the steamer was not a flagrant disregard of the Post and Telegraph and the Customs Acts.

THE PREMIER (Hon. Sir J. Forrest), replied that the facts connected with this case were being inquired into. From the information at present in the possession of the Government, the *Australind*, it would seem, had committed a breach of the Act.

# GOLDFIELDS BILL.

Introduced by SIR JOHN FORREST (for Mr. Burt) and read a first time.

# APPLICATIONS FOR HOMESTEAD LEASES.

MR. THROSSELL, in accordance with notice, moved that a return be laid upon the table of the House showing—

1. All applications received for homestead leases, and in what district situated, and their class.

2. The number of all leases granted since the Homesteads Act has been in operation.

Question put and passed.

# CONSTRUCTION OF MOUNT PARK ROAD.

MR. WOOD, in accordance with notice, moved, 'That, in the opinion of this House

the Government should at once take such steps as they may deem expedient for obtaining the sanction of Parliament for the construction of the Park Road from the top of Malcolm-Street to the Fremantle Road beyond Crawley, for which tenders have been called by the Public Works Department.' He said it was within the knowledge of members that a contract for this work had been accepted by the Government, but, for some reason or other, the Works Department were not in a position to sign the contract, and it was necessary to obtain the sanction of Parliament before the work could be proceeded with. He felt sure there would be no opposition to this motion, as the work in question was a necessary and desirable work. A sum of money was voted by Parliament for this Park last session, so that the necessity of the work had already been acknowledged; but it appeared there was some difficulty in connection with the expenditure of the money, and the authority of Parliament was now asked to enable the Government to proceed with the construction of this road at once. He had much pleasure in moving the resolution.

THE PREMIER (Hon. Sir J. Forrest) said he would like to say a word or two in regard to this motion—not in opposition to it in any way, because it was the desire of the Government to get on with this work as soon as possible; but there were difficulties in the way of providing funds, and he was sure that members would at once understand those difficulties when he explained matters. The financial year ended on the 30th June, and tenders for this work were called about the same date, and one was accepted; but, as a matter of fact, the Government were not in a position to undertake the work, because they had no funds available for it. It might, of course, be said that the Government should not have called for tenders unless they had funds available. His reply to that was this: a sum of £3,000 was voted by Parliament last year for the improvement of this Park, and this road was considered to be a part of that work; but, upon giving the matter further consideration, it seemed to the Government they would not be quite justified in spending a sum of money for the construction of this road that would be larger than the whole amount voted last year for the improvement of the Park. As a matter of fact, not a very large portion of the £3,000 voted last year had yet been spent; but the Government had appointed a commit-

tee, consisting of the Mayor of Perth and himself (the Premier) and some other gentlemen, to whom the Government had handed over the balance (a little over £2,000) that was still unexpended, in order that it might be spent in the improvement of the Park reserve, as intended by the Legislature, and not for constructing this road, which it had been found would cost about £5,000. In his opinion there was no work about the city that was more desirable than this road. When finished it would certainly be one of the finest drives in the whole of Australia, commanding magnificent views, and he believed that in time it would be very much valued by the citizens of Perth and by others who visited the colony. The plans and specifications for the work were already prepared, and everything was ready for putting the work in hand as soon as the authority of Parliament was obtained for the expenditure. He had himself intended to have moved in the matter, but for one reason or another he had not done so, mainly because the procedure was somewhat inconvenient,—having to come down to the House with a message from the Governor, asking the House, by a resolution, to approve of a contract being accepted, and then to have to keep the matter over for two months more, until the Estimates were passed. The Government, however, were most anxious to get on with the work, and there was no reason that he knew of why the work should not be proceeded with at once, except perhaps that some members might think that £5,000 was rather a large sum for this road. But it was going to be done well, in a permanent way, and it would be a good road for all time; and he did not think that anyone in the future would begrudge the amount. He was prepared, himself, to support the hon. member's resolution, upon this condition: that it be taken by the Government as an intimation that the House approved of the work going on at once. The necessary vote would then appear on the Estimates in the ordinary way. Of course, unless the House approved of the resolution the Government would not go on with the work until the Estimates were passed. If, on the other hand, the House approved of the resolution, the Government would take the responsibility of accepting it as an authority to go on with the work immediately. He should advise the House to approve of the resolution. The improvement

of this Park was a matter which he had very much at heart himself, and he intended to take a great interest in it. They had already done something, but not very much, in the direction of clearing the scrub and otherwise improving the ground, and he believed they would be able—without too large an expenditure either—to make this reserve of 1,000 acres a place which the citizens of Perth, and future generations, would be proud of, and thank the Legislature of the day for having had sufficient foresight to undertake such a work.

Mr. R. F. SHOLL hoped the House would not agree to this resolution. It was a most ingeniously worded resolution, but there could be no doubt it was contrary to the spirit at any rate, of their Standing Orders. He also thought it was inconvenient to have resolutions of this kind brought down before the Estimates for the year were brought in, and that the House should be asked to authorise the Government to spend money on the strength of a mere resolution of the House. Last session a sum was placed on the Estimates for certain works in connection with this work, and the money was voted; and, before they agreed to a resolution like this, they had a right to know how much of that money had been expended, and how it had been expended, and what balance was still in hand. [THE PREMIER: I told you so, just now.] He also thought they ought to have the estimates, or the specifications, at any rate, for this road before them. If he was rightly informed, this road, as designed by the Works Department, was going to cost a large amount of money. [THE PREMIER: I told you—£5,000.] There were some members of that House who had had a little experience in road-making in country districts, and who knew what road-making was; and he did not think the House would be acting wisely, after the experience they had already had of the style of road-making carried out by the Works Department, in the direction of Subiaco,—he did not think the House would be acting wisely in allowing the Department to have anything to do with the expenditure of this money. Besides, £5,000 for the construction of a road over which only light traffic was supposed to travel, seemed to him a larger sum of money than that House would be justified in expending upon this road. While on this question of the expenditure of money in the city of Perth, he desired to warn the

House that, unless it took a very strong stand, it would be found that the City Council would soon monopolise most of the revenue of the colony. It was a most unfortunate thing that they should have in that House several members who were also members of the City Council, and the Mayor also, who was known to largely control—in fact, he might say, to entirely control—the present Ministry. The City Council had only to make representations to the Government and the Government came coolly down and asked the House for thousands of pounds of public money for works that were not urgently required, and for works of a more costly and extravagant character than the House would be justified in approving. Things were coming to such a pass now that if the Commissioner of Railways, or any other Minister, ventured to disagree with the City Council, that august body at once threatened to go to the Premier, and get him to compel the Commissioner to do this, that, and the other. In fact, members of the City Council were now superior to members of Parliament itself. He hoped the House would not agree to this resolution, until they had the estimates and specifications before them, so that they could see whether this road, as intended to be constructed, was not a more extravagant and expensive piece of work than was really necessary.

MR. A. FORREST said it was quite refreshing to find the hon. member for Gascoyne appearing, for the first time this session, in his old rôle. The resolution brought forward by the hon. member for West Perth was a very proper one, and one which he was sure would receive the approval of the House, so that this important work might be proceeded with at once, instead of having to wait two or three months, until the Estimates were passed. The road had been surveyed, and a magnificent road it would be. The work was one of great importance to the city. [MR. RANDELL: In what way?] The hon. member for Perth asked in what way. In this way: We want to make the city attractive, so as to keep people here when they came here. The great complaint at the present time was that there was nowhere you could go to, or nothing worth seeing, about Perth; and people were going out of town to live in the suburbs, such as Claremont and Cottesloe, because they were pleasant places to live in. If they had this road made, it would be one of the best sights in the colony, commanding, as

it did, all along, some magnificent views of the river. The money for a Park had been voted, but what would be the use of a Park without a road leading to it? The hon. member for Perth had recently been to Sydney, and he must have seen the splendid Centennial Park in that city, which had been all made at the public expense. Why should we not have something of the same kind here? As to the allegations of the hon. member for the Gascoyne about the City Council and the Government, he denied the hon. member's imputations altogether. The City Council never asked for anything unreasonable, or which was not in the interests of the citizens; and he was surprised at the hon. member for Perth, of all people, objecting to such a project as this, which had for its object the beautifying of the city, so as to make it a more attractive place to live in. He hoped the Government would continue to spend money in the city, with that desirable object in view. This Park land did not belong to the City Council; it was Crown land. He hoped the House would agree to the resolution, so that this work might be proceeded with at once. He was sure it would be agreed to when the Estimates came down. It was a very necessary work, and it would also employ a large amount of labor, and be of great benefit, not only to the present inhabitants of Perth, but also to those who would come after us, who would be able to drive along a road commanding such a beautiful panorama as could probably not be seen anywhere else in Australia. This Park reserve was now a mere wilderness. It had remained so for the last 50 years, and it was high time they made some use of it. He hoped the resolution would pass.

MR. CLARKSON said he rose with the object of informing the House that it was his intention to support the motion. He had no interest whatever in the construction of this road, but about two years before had been taken over the Park. He was asked to go as a disinterested party and went in company with a gentleman who was at that time a member of the Assembly. The result of that visit of inspection was to completely astound him to find such a fine and valuable piece of land allowed to remain in just about the same condition as it must have been in when the colony was first settled. The construction of this road would have the effect predicted by the hon. member for West Perth, and that was to

make the City attractive. It was to the interest of all parts of the colony that the place should be made sufficiently attractive for people to remain.

MR. RANDELL desired to point out that the hon. member for West Kimberley was a little too hasty in taking up his interjection. The interjection he (Mr. Randell) had made was with the object of gaining information. What members of the House wanted to know was, not whether the road should be made, but what there was to be said as to its being such an urgent matter as the hon. member for West Perth had made out it was. In urging a motion like this there were several reasons the hon. member in moving it should have been able to advance, although he had not done so. The Member for West Kimberley said that this land had remained in the state it now was for the last 60 years. Whether that were so or not, he thought the making of this road would not have the effect the hon. member seemed to believe it would, viz., of retaining people in the colony. At the same time there was no question that when the road was made it would be a great improvement. No one had been more active than he in urging that the City should be made attractive. He had suggested long ago that the Park should be cleared of the underwood, and opened up to the public as a pleasant resort. He thought that this road could not in any way be considered a work of urgent necessity. In fact, the hon. member who had brought this motion forward was following a most objectionable practice which frequently sprung up in the days when the colony was under its old constitution. In those days whenever a member of the House was anxious to get some particular work done in his district, and there had been provision made for it, he anticipated the Estimates by bringing forward such a resolution as that now before the House. This method of doing business had been found exceedingly inconvenient, so much so that eventually members generally set their faces against supporting any attempt of this description, and every means was taken to prevent what was clearly a very bad principle.

MR. LORON: We had to have it stopped by our Standing Orders.

MR. RANDELL: Yes. He was therefore very sorry to see that the Government appeared to be willing to support the proposal of the hon. member for West Perth. It would

be very inconvenient to take such a step as that desired in the motion, when no real reason existed for departing from the ordinary course. At the same time it might be said on the other side that it would be inconvenient to wait, but he did not believe that any injury would result if its construction was delayed until the question had been brought under the notice of the House in the proper way.

THE PREMIER: But we have called for tenders.

MR. RANDELL: That is a mistake on the part of the Government and we cannot help or remedy it in the way this motion desires. The principle was one which should not be departed from, for the simple reason that similar attempts would immediately be made by other members representing other districts. He hoped the Government would not allow any interference with the Estimates before the proper time. So far as the usefulness of the road was concerned it was to be presumed that its main uses would be for pleasure parties. A large amount of traffic was not likely to take place over it, and the sum mentioned by the Premier as being the probable cost seemed an excessive one. It was a very high one indeed. The requirements of the road could not possibly be such as to make it necessary to cost £2,000 a mile. He thoroughly believed in the road being built if brought forward in the proper way, but not in so much money being spent on it.

THE PREMIER: There is great difficulty in getting the material there.

MR. RANDELL: That may be so. At the same time he doubted if the difficulties were so great as they were made to appear. There was no reason why the same method should not be followed as was followed in the construction of the Subiaco road. A gravel road with the gravel something like a foot deep should give a road that would do very well for all that would ever be required of it. There could be no necessity for getting bluestone for such a road.

THE PREMIER: The material proposed to be used is limestone gravel.

MR. RANDELL: Then surely that material should not cost so much. What he had to impress upon members of the House was the danger of not insisting upon all these matters being included in the Estimates and brought down to the House in the proper way. For the sake of a few weeks

delay in the making of a road the House should not sacrifice a principle and permit the re-introduction of a system which had been greatly abused some years ago, and had generally been declared to be most inconvenient. So far as the roads outside of the city of Perth, referred to by an hon. member, were concerned, he had nothing to say, but he did know there were some very bad ones inside the city boundaries. He would mention one of them, and that was the road from Hutt-street and William-street to the Railway Goods Sheds. This road was in a positively disgraceful condition. It was impossible to go by this road on foot without being up to the ankles in mud. He had had occasion to use this road, and found that it was hardly possible to get to the goods sheds. People had a right, while they were on business, to be able to reach such an important place as the railway station and goods sheds without getting into a great quantity of water and mud. He was perfectly aware of the fact that this road belonged to the city, and no doubt the City Council was endeavoring to induce the Director of Public Works to assist them with some money, but the condition of the road to-day was a standing disgrace to the City Council, as well as to the Government. So far as the Commissioner for Railways was concerned, he was also interested, for the simple reason that it was not a good business principle to follow, that people should have to wade through mud and water in order to get to the goods sheds. He thought that from the large surplus revenue some way could be found of assisting the Council to improve the road, one of the most important approaches to the Railway Goods Sheds. He hoped the Commissioner for Railways would carefully read, mark, learn, and inwardly digest what he had said about this matter, for the state of the road was a constant aggravation and annoyance. The motion was one he would oppose for the simple reason that he objected to the Estimates being anticipated in the way it was proposed should be done.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn), in reply to the hon. member who had just spoken, desired that he should take his own advice to heart. If the hon. member for Perth had learnt, read and inwardly digested the reports of the City Council, he would find that the Director of Works would be a very unwise man if he attempted to enter into any work of that body. The City Council

would not be likely to tolerate any interference from him in the carrying out of work within the City boundaries, and they were too strong a body for him to try. It was quite possible the City Council was right, and it was equally possible that if he were to tell them to make streets and so on, they would regard his action as being the height of impudence, and possibly ask what business was it of his. There were no funds at the disposal of the Commissioner of Railways, nor were there any in the hands of the Director of Public Works, in order to carry on street making in the streets of Perth. If the work had to be done by his Department then the authority would be in the special vote passed in the ordinary way by the House. To attempt to interfere with the City Council would be like inviting capital punishment at once. It was a matter for regret that any of the roads leading to the railway station should be in the condition indicated by the honorable member for Perth, but he (Mr. Venn) had to be very careful of any position he took up. His office was one which made him careful. It was of course an unpleasant thing to have to say "no," but when the word was said it was far more unpleasant and difficult to stick to it. So far as he was concerned he endeavored to do what was right in all matters between the City Council and the Government. The hon. member for Perth was really confusing, what was asked for this Park road, with a system followed in this House some years back. He (Mr. Venn) had been one of those who sometimes took advantage of that particular method of endeavoring to secure something for his district before the Estimates came on, but he was free to admit that the practice was, in every way, a bad one. At the same time the circumstances of the two cases were not at all similar, for it had to be recollected that Parliament had already practically sanctioned these improvements at the Park when it voted the sum of £3,000.

MR. LORON: Spend the money you have already got, on the road and get a further vote.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn): The Premier has already explained the matter. It having been decided that the sum of £3,000 should be retained for general improvements at the Park, and that the necessary road should be considered as an outside work, tenders had been called, but in view of the decision of the Cabinet, it

would have been improper to accept any contract, for the simple reason that there was no authority to spend the money. The only thing, therefore, that could be done in order to get the work proceeded with, was to advise the hon. member to ask the House to pass the resolution and practically authorise the expenditure of the money. Of course if the House was against the expenditure of the money and the construction of the road, the matter need go no further.

MR. RANDELL: We do not say that. We only say there is no urgency such as should make us depart from the proper practice.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn): The urgency lies in the fact that tenders have already been called for this work. The specifications provide for a twenty foot road, pitched with limestone capstones, and covered with gravel. No doubt such a road as provided for would last for all time; but it was necessary if the road was to be a permanent one, that the foundation should be good. Of course it would be possible to get a temporary road much cheaper, but then it would not last. There were plenty of good roads in the country only made of gravel, but this was where gravel was easily obtainable. This road at the Park would have to be constructed by the aid of a light tramway, for the simple reason that if this was not done the cost would be £10,000 instead of £5,000.

MR. RANDELL: Oh nonsense.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn): If you wanted to take stone right up Mt. Eliza in the ordinary way, one horse would not be able to get up with more than a quarter of a ton. Under all the circumstances he hoped the House would pass the resolution, and this tender would then be accepted, as the Government would understand that members were in favor of the road being made.

MR. ILLINGWORTH declared that he would go very largely with the hon. member for Perth in this matter. It would be a very great mistake for such an expenditure as this to be authorised in the way suggested. The road was, after all, only what might be called a luxury road. They had managed to get along without this road for some time, and they had the declaration of the hon. member for Newcastle that the place was in the same state now as it had been sixty years before.

It was therefore only reasonable to suppose that no great harm would be done by waiting another six weeks or so. There was always a right way, as well as a wrong way of doing things, and the right way in this case was for the matter to come up in the Estimates.

THE PREMIER: That may mean a delay of a couple of months.

MR. ILLINGWORTH was still of opinion that the work should not be authorised before the House had the Estimates before them. He would suggest to the hon. member who moved the motion that he should strike out the words from "should" in the first line to "for" in the second line, with a view of inserting the words "place a sufficient sum of money on the Estimates." The resolution would then read:—"That in the opinion of this House, the Government should place a certain sum of money on the Estimates for the construction of the Park Road, &c."

THE PREMIER: It cannot be done. You had better support the motion.

MR. ILLINGWORTH: If this could be done, he would most certainly vote against the motion. He entirely objected to money being spent in this way. If they had any money to spend, let the Government expend it on urgent works—upon some of those works he had brought under the notice of the Premier that day. Unless it is to carry out some really urgent works it was out of place for them to pass a formal vote to carry out what was practically a luxury road. If the Government followed the custom he was used to elsewhere they would simply place a sum of money on the Estimates for this work, and let the matter come before the House in the usual way. Under all the circumstances, he hoped that the hon. member who had brought this motion forward would see his way clear to withdraw it, in order that the ordinary procedure might not be departed from.

THE COMMISSIONER OF CROWN LANDS (Hon. A. E. Richardson) said he really did not think that the House committed itself in any way whatever by passing this resolution. The resolution simply said that the Government should take steps to obtain the sanction of Parliament to expend the money necessary for the work, and the matter would have to come before the House again.

MR. ILLINGWORTH: The Treasurer has already said if the motion is passed he intends to accept tenders right away.

THE PREMIER: I would accept the responsibility of doing so, that is all.

THE COMMISSIONER OF CROWN LANDS (Hon. A. R. Richardson): The passing of the resolution would, of course, be an indication that the House approves of the expenditure.

MR. LEAKE: Oh, you had better consult your colleagues. You are simply adrift.

THE COMMISSIONER OF CROWN LANDS (Hon. A. R. Richardson): would then suffer all the consequences of being adrift. If the House was favorable to the construction of the road, they should let the Government proceed with it in the most economical way, and that was by calling for tenders for the work. That was the fairest and most open way of proving that the work would be done at the lowest possible cost.

MR. LOTON desired to point out that the more hon. members discussed this subject, the less notice they were taking of the question of what this road was going to cost.

THE PREMIER: It is to cost £5,000.

MR. LOTON: Well then, they had no right to discuss the expenditure of such a sum of money, at this stage. It was not a question of whether the construction of the road would be advisable or not, but he took the same ground as the hon. member for Perth, and that was that if this sort of thing was permitted now, there could be nothing to prevent similar attempts being made by other members in the future, in defiance of what was a proper and necessary practice. So far as the resolution before the House was concerned, the hon. member who brought it forward should have been prepared to prove, on the very threshold, that he could not wait two or three weeks, because the work was of such an urgent character. There was no real suggestion that the work was one of this nature. There had been a certain amount of money already voted for this work, and surely the best thing to do would be to spend whatever money the Government had in hand. The sum of £3,000 which was held for improvements in the Park would make a portion of the road at any rate. It was quite possible that so far as the construction of the road was concerned, he (Mr. Loton) might be as strongly in favor of it as any member of the House, but there were other urgent works if it came to a matter of necessity, and to construct them in the manner suggested would be to fly in the face of the methods usually adopted, and to entirely go out of their way to pass a

motion which could well wait for the Estimates. There was no reason why the proper course should be departed from, and consequently he would oppose the motion.

MR. JAMES hoped that members who had intended to support this motion would not have their feelings on the subject warped by mere questions of formality. It was scarcely right that such young and inexperienced members as the member for West Perth and himself should be immediately jumped upon, as though in bringing this matter forward they had been guilty of doing something terribly wrong. He would ask hon. members to look at the substance of the motion and not of the mere form of it, and it was purely on the score of formality that objection was being raised. After the Hon. the Speaker of the House, the conduct of the business brought before the House usually rested with the Government. If, as in this case, the Government was practically bringing the matter forward, and the Speaker saw no reason to object on the grounds that the procedure was improper, members who were otherwise in favor of this road could very well overlook what were after all mere matters of form. It was very often the case recently, for references to be made to the City Council. The country was at present full of people who were positive they could run the affairs of the country better than Parliament could, and some people also imagined they knew the business of the City Council better than the members of that body. No matter what part of the country they would go to they would always find some people who knew how to run some one else's business better than the owners themselves did, and there was always some fault being found. However, at the same time, if the members of the City Council had failed too utterly to carry out their work it was somewhat surprising that the people appeared to be content, and that there was not a continual rush of new people coming before the ratepayers. It might not be out of place for him to suggest that the Perth City Council had among its members those who were just as emphatic as any member of the House, and it was these gentlemen who should, at the very least, be given the credit of doing the very best thing they could with the means at their disposal. However, so far as this proposal for the improvement of the Park was concerned, after going a certain extent, were they to stop and look at the place in its present state for



another sixty years. That it has been much the same as it was that day, for nearly sixty years, there could be no doubt, but the hon. member for Nannine and others were to be reminded that the district in which Cue was, had done without a railway for sixty years also, but that was no sound argument why the railway should not be built now with as little delay as possible. If the members of the House were going to admit some of the arguments put forward, they would simply admit everything in favor of the evils of procrastination. If the House was in favor of the work being done, they should let the Department proceed with it at once. One sound reason for this was in the fact that it was a recognised principle in road-making that you should get as much done in the winter months as possible. Members have said that this work should wait to be dealt with in the Estimates, but the Premier had informed them that evening that the Estimates may not be brought down for a couple of months. When they considered how aggressive some members became over items in the Estimates—and he admitted that he was one of these—it could be seen that two or three months might easily be occupied before the question could be disposed of, if left to be brought before the House in the usual course. If members were agreed that the work should be done, then let any mere technical objections be set aside. One speaker had referred to the road as one of luxury, but he could not admit that this was a true term to apply. Of late, whenever a proposition came up to do anything in Perth, there was always a cry that the work was a luxury. When a railway station was about to be built, although it was for the whole colony, as soon as the plans were seen it was declared to be too elaborate, but since the building was being completed, these very same people were beginning to think that it was not elaborate enough. It would not be out of place at this stage for him to say that he had been to the Park, and he had to warmly congratulate the Government on the great improvements already made. There was a great quantity of valuable firewood there, and something would have to be done with it. His friend, the member for Nannine, suggested that as the City Council had carts, and the cost of carriage would be so great, the wood might be given to the Corporation, but probably the Government would be disinclined to adopt the suggestion. The hon.

member for Perth had referred to the condition of Hunt-street, but a great deal of the trouble had arisen there in consequence of the Works Department blocking up the main drain, and preventing the water getting away by the cemented channel. It was the action of the Department that had made this street worse than it was before, and under the circumstances, as an alteration would cost a lot of money, the Government could very properly give the Council the necessary financial assistance.

MR. LEAKE failed to see where this resolution in any way involved considerations, conflicting or otherwise, between the City Council and this Parliament. The general objection to the resolution was that it was faulty in principle, and was to enable them to spend money before it was properly voted. He was given to understand that if the resolution was passed the Premier would immediately enter into a contract for making this road at a cost of £2,000 a mile. It was open for them to say whether this cost was not excessive. The House had been informed that the road to be built was to take light traffic only, and if so then the amount of money they were asked to pass must be excessive. The Hon. the Commissioner of Railways had informed them that the Government did not approve of letting a contract for the work until they had the authority of Parliament, and it was a very artful dodge indeed for the Government to make use of such a convenient catpaw as the hon. member for West Perth, and he was very sorry indeed to find that hon. member lending himself to be used in that manner.

THE PREMIER: What object could the Government have?

MR. LEAKE was sure the Government was right enough. That went as a matter of course. They were quite right in getting a good old supporter like the representative for West Perth to pull the chestnuts out of the fire. Under no circumstances would he (Mr. Leake) blame the Government for trying to get this done. The only one he blamed was the hon. member who had tried to do it. They were told that the matter would be brought before the House later on, but that in the meantime the construction of the road was to be proceeded with. What possible use could there be in objecting then? Members might say £2,000 a mile was too much for the construction of a road, and the Government reply

was that the House had agreed to the expenditure, and it was too late to object. What was more, when they wanted to object later on, they would be informed that the contract had been entered into, and that it was too late for any objection to be raised. It was not only a question that the road might be made for £1,000 per mile, instead of £2,000 per mile, but that what was proposed was contrary to the principles recognised in this House, and he desired to protest against the House being led into expending any sum of money not properly provided on the Estimates, and brought before the House in proper form.

Mr. HARPER moved, "That the debate be adjourned, and that in the meantime the Government lay the specifications for this road on the table of the House."

Motion put and passed.

Debate adjourned.

#### AGENT-GENERAL BILL.

Read a third time, and ordered to be transmitted to the Legislative Council.

#### CRIMINAL EVIDENCE BILL.

##### SECOND READING.

Mr. JAMES: I rise to move the second reading of this Bill. In dealing with this measure, I may say that I am not anxious to have the debate on the second reading to-day. My desire is to say a few words in explanation of the more important features of the Bill, and with the object of clearly laying before members what the effect of the Bill will be, should it become law. The mere wording of the Bill will not show the lay members of this House what effect it will have if it is passed. What I should like would be that after I had explained the various sections I should continue the second reading address on another occasion—that is, if in any way the forms of the House can allow the mover of a second reading to also move the adjournment of the debate.

THE SPEAKER: The hon. member can not do that, but of course he has the right of reply.

Mr. JAMES: Certainly, Sir. The Bill as it is now before the House is properly entitled an Act to Amend the Law of Evidence, and more especially the law of evidence in criminal cases. It provides the means whereby a person charged with any offence other than felony can become a competent witness, and also that

in all cases of a small nature or of summary conviction, or in such cases where the punishment only involves a small penalty, he may be not only a competent witness, but a compellable witness as well. This question of evidence was one treated within very narrow limits by the common law itself until a few years ago. It was only a few years ago that the Act was passed by which in ordinary cases at common law a person suing or being sued could offer himself as a witness on his own behalf. In fact, it is within the reign of Her Majesty the Queen that the alteration in the law has been made. In times prior to this the evidence of any party in a suit was always regarded with such strong suspicion that they were not permitted to give evidence one way or the other. It was only after a long fight that the necessary alterations were made, and since then there have been several Acts amplifying the laws of evidence so far as they deal with criminal cases. Sections have been put in making either a plaintiff or a defendant in a suit at common law competent and compellable witnesses. In fact, the tendency of the more recent alterations is to make any person except in cases of felony, compellable to give evidence if called upon. In the amended Act of 1892 in this colony, which is really the Act of 1881 of England, provision is made whereby any person charged with any offence other than a felony has the right of giving evidence on his own behalf. Most of the Acts now-a-days, where the conviction is summary, or the penalty in the way of a small fine, make provision for the person so charged to be a competent witness. What I desire to obtain by this Act is that not only shall persons charged with offences of this character be competent witnesses, but that they also may be compellable witnesses. I would also go to the extent of making them competent witnesses in cases of a more serious nature, but we have been so often advised not to go too far at once, that I am prepared to let the wider extension of the principle be deferred. I thought that if we got this far we could make other amendments later on, when it was proved by experience that the provisions of this Act were having good results. What hon. members should bear in mind is, that by the principles of the law at present, an accused person cannot be compelled to give evidence unless in certain special cases where legislation has particularly provided for it. However, it will be found that if this power to call on a defendant in many cases where

the conviction is summary and for some small penalty, to give evidence, or for him to give evidence on his own behalf, is provided, it will be largely availed of. One of the sections of the Bill was to make a wife a competent witness so far as cases in which her husband was concerned, and the husband a competent witness in cases where the wife was concerned. I propose that in either of these circumstances the wife or husband, previously debarred, shall be a competent, though not a compellable witness. Sub-sections B and C show the persons and the cases in which evidence can be given, and at the same time fully entitle any party in a case who has been compelled to give evidence to refuse to answer any question that in his opinion would incriminate him. The exception to this is also provided, and that is where a man on his own motion elects to go into a witness-box in order to give evidence that he is of good character, and so on. Well, provision is made by which he can be fully examined with a view of showing that he is a bad character. At present a man cannot be questioned as to prior convictions excepting in a certain way, and this Bill makes provision whereby, when the question of character has been deliberately opened up by the man himself the Crown may show that he has been previously convicted, and is a bad character. In a case like that it would be the man himself who opens up the question, and he must suffer the consequences. Section 3 makes provision whereby in the event of a person charged with any offence not electing to give evidence on his own behalf, neither the judge nor counsel must draw any inference from the refusal that would be prejudicial to such a person. The mere fact of a man not going into a witness-box should not raise any presumption of guilt against him. It may be said, what is the use of Section 3, when the jury themselves will take cognisance of the fact that the man has not given evidence, and will draw their own conclusions; but this would not be so, as their verdict must be upon evidence and not upon mere inference. It is a well recognised fact that a person must be convicted on the evidence, and not on any assumption drawn from the refusal of a man charged with an offence to go into the witness-box. Section 3 would not be a useless one but most valuable in certain cases, for while it gave a person charged, the right to go into the wit-

ness box, it also gave him the protection of the judge and jury when he did not elect to do so. There are very many cases where the opportunity to go into the box would be taken advantage of. The disqualifications resting upon persons charged with even the most trivial of offences, are nothing less than a survival of old and barbaric laws. They are in reality tinged with the laws of olden times when a person charged with an offence was not permitted to give any evidence or proof of his innocence, except such proof as consisted in his being able to walk over red hot bars of iron in his bare feet. It was nothing less than a continuation of the old idea that the only question at issue in the trial of a person was whether they were to have their throats cut or be hanged. It has been a very difficult matter, even in England, to bring the question of evidence in criminal cases to the standard it occupies to-day. In the present session of the House of Lords, Lord Halsbury is endeavoring to pass a measure on the lines of the Bill now before this House, and in the comments made upon Lord Halsbury's proposals by the *Law Times* most favorable opinions are expressed, and the measure is supported. There are principles in the laws of India, as well as of America, that might well be introduced here, but there is, at any rate, nothing in the provisions of the present Bill by which any injustice can be done. At the present time there are many gross injustices possible under the existing system, and what this Bill seeks to remedy is the state of affairs under which a man charged with some trivial offence under summary jurisdiction, where the penalty is imprisonment in default of paying some small fine, cannot go into the witness-box and give evidence just as freely as he can go into the witness-box and give evidence on his own behalf if he is sued for £5 or £10 in the local court. I would extend the principle so that in these small cases a man charged with a misdemeanor could be compelled to give evidence. We would not then have the law so often held in contempt, and, what is more, we would be able to get at the truth in a lot of cases. Take for instance prosecutions under the licensing laws. My experience is that it is well nigh impossible to get convictions, for the reason that the evidence of the principal witness cannot be secured. It is too much to the interest of the parties concerned to make the collection of evidence an easy matter, and

I believe much good would be done if, in these cases, even the defendant could be placed in the witness-box. The proposed alterations have met with the approval of many people competent to judge, and also of many lawyers. Lord Halsbury is one of the Conservative Lord Chancellors, and I do hope that the favorable comments made by the leading law journals will be borne in mind. I would ask hon. members to think this matter out for themselves, and not pay too much attention to what the lawyers may say. Let hon. members simply ask themselves whether it will not be more just for a person charged with an offence to be permitted to make his explanation to the judge and jury, instead of practically being gagged. I do ask for favorable consideration of this Bill on the grounds that it will not only remove injustices, but will also do a great deal of good. I have pleasure in moving that the Bill be read a second time.

THE ATTORNEY-GENERAL (Hon. S. Burt): I have no wish to ask the House not to read this Bill a second time. It is quite open for hon. members to form their own convictions. It is a matter that has evoked, for many years past, different opinions from different people. The present law of evidence, as we find it in criminal cases, is based in large measure upon the weakness of human nature. The proposition to allow a person charged with an offence to give evidence on his own behalf, has always been considered a proposal that will tend very largely to the crime of perjury. It is only natural, if a man thinks that by telling what is untrue he can get out of the charge, for him to tell it. Very few people in the present day would hesitate to do it. With regard to the disability of the wife or husband, when either of them is charged with a criminal offence, it is a very great inducement, while the law is as it is—for the wife to come forward, and tell a lie to save the husband, or *vice versa*; and so for them to commit perjury. These are considerations that have weight with those in other places, who have no such proposal as this. I know the hon. member for East Perth is very much in love with all new doctrines and new nostrums. I do not wish to oppose them if they are good. There are some things no doubt to commend an Act of this sort. The proposal, for instance, made in Section 2, with regard to summary convictions. I think it is rather a good proposal, to allow a husband or wife to be a com-

petent or compellable witness in cases of summary conviction, though it is simply a question of inducement to commit perjury in higher courts, where the punishment is far more serious. I think in this case it would be well to allow a husband or wife to give evidence. Years ago, in this House, I contended for this principle in the Licensing Bill, and got into serious trouble in consequence. The only thing I would say as to the extension of misdemeanors, is that it will be an inducement to commit perjury; and further than that, very often a person who is charged with an offence may be innocent, and yet may be so greatly embarrassed by being charged, as to be led to make statements, or say things, not quite consistent with truth, and if he did so when he got into the witness-box, he would be expected to substantiate what he had said before. He has made a mistake, and got into a trouble that he would not have done if he had held his tongue. The very fact of a person being competent by law to give evidence on his own behalf, if he does not give evidence, raises suspicion against himself. An innocent man is often tongue-tied, and if he says anything, he generally says the wrong thing, and so commits himself at once. If he says nothing, the inference is at once drawn that he has got nothing to say. If you see a man charged with an offence who has nothing to say for himself, you must not refer to it, according to the provision in this Bill. You must not say to the jury: Gentlemen, if this man were innocent, he would have told us all about it. But the counsel may get up in court and say: Gentlemen, I make no comment upon the fact that the prisoner, who might have given evidence in his own behalf, has said nothing. Or he could look at him with a very ominous silence, more eloquent than a speech of an hour's duration. The very fact of this third section pointing out that difficulty suggests the attention of the hon. member for East Perth had been drawn to that point. I do not, however, intend to oppose this Bill, if the sense of the House is in favor of it; with regard to summary proceedings, I am in favor of it. At the same time I do not know that it is the law in any other colony.

MR. LEAKE: Yes it is, in South Australia and New Zealand.

THE ATTORNEY-GENERAL (Hon. S. Burt): I always except New Zealand. With regard to misdemeanors in a superior court, it is a good system, because a majority of the

cases tried in the Supreme Court are felonies. Any larceny is felony. Stealing goods and chattels. I say it is a good principle for misdemeanors, I do not see why it should not be good for minor offences. The more serious the offence, the more the inducement to commit perjury, and that is the case for this Bill. I am not sure that in consequence we shall not have a great deal more perjury in our courts than we have now. I mention these things with a view of inviting hon. members to consider what will be the effect if they accept this Bill. I am in favor of the parts dealing with summary proceedings; but of the other parts I am in doubt as to whether we shall be doing right to accept them, seeing they are not the law in England. Hon. members can form their own opinions as well as I can. I do not move any objection to the Bill.

MR. JAMES: In explanation I may say I evidently misled the Attorney-General in reference to the restriction to misdemeanors.

MR. LEAKE: As the Bill before the House involves the consideration of many particulars of great importance, I move the debate be now adjourned.

Question put and passed,

Debate adjourned accordingly.

## ARBITRATION BILL.

### SECOND READING.

MR. JAMES: This Bill, I think, will commend itself to every hon. member of the House. It is copied from the English Act of 1889, I think. It has since then been copied in all the colonies of Australasia; and I believe it is copied into the Statute Books of other portions of the British dominions. It practically codifies the law of Arbitration. The law as contained in the English Acts 53 and 54 is very unsatisfactory. Those Acts have not been adopted here, though as a rule we act under them. The reason that commended this Bill to the English Parliament will apply with greater force here. There the Statute law was clear on the matter, whereas here there has always been doubt as to how far the law applies. The first clause of the Bill is merely formal. The only alteration is that the submission must be in writing. Clause 2 deals with references by consent out of Court. That phrase applies to all the submissions, which are usually called arbitrations. References made in Court are generally called references. Clause 3 will be

found most useful by the commercial part of the community; it provides what shall be implied in a submission. Clause 5 makes provision for a stay of legal proceedings when a person has agreed to go to arbitration. Clause 6 gives power to the Court, in certain cases, to appoint an umpire. Clause 7 states what is to be done when a vacancy arises. Clause 8 deals with the powers of arbitrators. Clause 9 refers to the subpoenaing of witnesses. Clauses 10, 11, and 12 deal with powers in connection with awards. Clause 13 makes the award of the same effect as a general order of the Supreme Court. That prevents anyone taking legal proceedings. When you get an award, you are in the same position as if you had got an order from the Supreme Court. Clause 14 provides that the arbitrators' fees may be taxed. Those fees have to be taxed after payment is made, because the amount has to be paid before you can take up the award. Suppose you have two arbitrators, and an umpire, in a case of arbitration; they simply state the gross sum, without giving any particulars of the exact work done; and unless you pay the amount you cannot get the award. Provision is also made for taxing before payment. The following clauses of the Bill deal with matters of detail. I do not think it requires many words of mine to commend this Bill to the attention of the House. It consolidates the law as at present existing. I do not know of any law that needs more attention than this, and I shall be glad to see this Bill become an Act. It will give satisfaction to those inside the law, and those outside, too, who want to have a summary method of deciding disputes, and still keep out of Court. I move the second reading of this Bill.

THE ATTORNEY-GENERAL (Hon. S. Burt): This Bill has my most hearty support. It is an Act that is very much required here. The hon. member said it is one that has found a place in the Statute Books of all the other colonies. I would ask him to allow me to do this with regard to this Bill, and also the Partnership Bill: to ask the House to refer them to a Select Committee, and for this reason—it would be quite uninteresting to the hon. members of the House to hear the hon. member and myself bandying words on legal matters across the floor of the House. I have no intention of opposing the Bill, but propose to refer it to a Select Committee of the legal members of the House, who might then settle

their difficulties and come here and tell the House what the position really is. I am in very hearty accord with the object of the Bill.

Bill read a second time.

THE ATTORNEY-GENERAL (Hon. S. Burt) moved that the Bill be referred to a Select Committee.

Motion put and passed.

A ballot having been taken, the following members, in addition to the mover, were elected to serve upon the Committee:—Mr. James, Mr. Leake, Mr. Loton, and Mr. Randell.

Ordered—That the Committee report to the House on Tuesday, 30th July.

At 6.30 p.m., the House adjourned for an hour.

At 7.30 p.m. the House resumed.

## PARTNERSHIP BILL.

### SECOND READING.

MR. JAMES: This Bill, which is intended to consolidate and amend the law of partnership, is a Bill which I am sure will commend itself to the House, in the same way as the Arbitration Bill has done. As the Attorney-General has thrown out a desire that the same course be adopted with regard to the present Bill as was adopted in the case of the Arbitration Bill—that is, that it be referred to a Select Committee—I do not propose to say but a very few words indeed upon it, in moving its second reading. The Bill is divided into two parts, the first part being a consolidation of the existing legislation dealing with partnerships, while the other part, and the more important part of the Bill—important because it is new—deals with questions of limited partnerships. The other portions of the Bill may be said to be an exact counterpart of the provisions of the Partnership Act framed by Baron Pollock, with the assistance of Lord Justice Linley, with the addition, as I have said, of the somewhat novel features relating to limited partnerships. A Bill of this nature was introduced into the House of Commons on two or three different occasions, but, owing to press of other work, it was not passed into law; and the novel part of the present Bill—that is, Part IV., relating to limited partnerships—was not included in the Act passed in England. The object of that part of the Bill (as members will see on reference to Clause 60, and the subsequent clauses) is to

limit the liability of a partner in respect of the debts and obligations of his firm. This liability is limited to the amount which the partner has contributed, or undertaken to contribute, to the partnership property. At present no such limitation exists; and in order to participate in the provisions of this Bill it is necessary that the limited partnership shall be registered. If a partnership is not registered under this Act, every partner in the firm will still be deemed to be a general partner, and his liability will not be limited in respect of the partnership debts. The advantage of this new principle is this: that every person who enters a firm as a partner will know exactly, by the amount he has contributed, what his liabilities are with regard to the firm's debts and obligations. A limited partner, however, shall have no right to take part in the management of the partnership business, except as an agent acting under express authority from the general partner. Nor will he have authority to bind the firm. Neither will he be entitled to a voice in the decision of matters relating to the ordinary course of the business. In other words he will be merely a sleeping partner. His consent, however, will be necessary before any new general partner is admitted into the firm. Clause 66 provides that the consent of the general partner or partners, only, shall be required to exempt a limited partner from liability to account to the firm for any benefit derived by him from any transaction concerning the partnership. The limited partner will not be restrained from competing upon his own account with the business of the firm of which he is a limited partner only. It is proposed that these limited partnerships shall be entered into for a fixed term, and the partnership cannot be dissolved before the expiration of that term, unless all the partnership debts are paid, or unless all the unpaid creditors of the firm consent to the dissolution. This consent must be in writing. Any dissolution of a partnership contrary to these provisions will render the limited partners liable, as general partners, for all the firm's debts and obligations. The death of a limited partner, or the alienation of his interest in the partnership by the operation of law, will not dissolve a partnership as between the surviving partners. With regard to bankruptcies, it is only the general partner or partners in a limited partnership who are to be liable to be made

bankrupts in respect of the dealings or liabilities of such partnerships. As soon as a limited partnership has been registered, and the contribution of the limited partner becomes due, unless he pays up his contribution he may be sued for it by the general partner or partners; and a limited partner, during the continuance of the partnership, is not to draw out or receive back any part of his contribution. With the exception of the provisions I have indicated, the general rules applicable to the law of partnership will apply. Personally I am in favor of applying the principle adopted by the limited liability Act to every partnership. I cannot see what objection there can be to limiting the liability of partners to the amount of their contributions. If it is a good principle to apply to ten or fifteen or twenty people who chose to form themselves into a limited liability company, is it not an equally good principle to apply to two or three persons who enter into partnership together? I may say that the principle of this Bill has been adopted in Germany, in Switzerland, in Holland, and, I think, in France, and also in several States of America. This principle of limited partnership, however, is one that applies itself more to the commercial community than to lawyers, and I commend it to the consideration of those hon. members who are concerned in mercantile affairs. Personally, I am not particularly wedded to Part IV. of the Bill; I should like to see the principle extended further. I believe it is a valuable principle, and although it is a novel principle so far as English legislation is concerned, I see no earthly reason why we should not adopt it on that account. If the principle commends itself to hon. members, I do not think we should object to it merely because it is a novel principle, or an untried principle, or because there may be some uncertainty or some difficulty in the first instance in putting it into operation. Many complaints are now made by men who go into business without any idea of the amount of their liability as partners, and this Bill will assist them in that respect, and I think its provisions will be found extremely useful. For that reason I commend them to the House, and now move that the Bill be read a second time.

THE ATTORNEY-GENERAL (Hon. S. Burt): I may say at once that I have no objection whatever to the first part of the Bill; on the contrary I am inclined to thank the

hon. member for having taken the trouble of introducing the Bill. But with regard to that part of the Bill dealing with limited partnerships, I must say I am not in love with the idea at all. I do not think the principle has been adopted in any English possessions, at any rate. As the hon. member says, the principle involved is one that is perhaps more for the consideration of the mercantile community than the members of other professions. But we are such a small community in this colony that I think we might well allow somebody else to try this principle first. I do not think we need make experiments in this direction yet, and start with this new description of partnership, until at any rate we have an opportunity of seeing how the thing works elsewhere. All the provisions of this part of the Bill are very novel, and I draw the attention of those members who are engaged in trade to them. With regard to the Bill itself, I propose, if it is read a second time, to adopt the same course with regard to it as I did with regard to the Arbitration Bill, and that is to allow it to be submitted to the consideration of a Select Committee—the same committee, if you like, as the other Bill has been referred to.

MR. LEAKE: So far as the principle of the Bill is concerned I am entirely with the hon. member who introduced it; but, like the Attorney-General, I approach the consideration of Part IV. with a certain amount of unis- giving, to say the least of it. I do not wish to condemn the principle introduced in that part of the Bill (the limited partnership principle), but simply to suggest that it is a principle that is open to criticism. It seems to me somewhat dangerous to introduce an entirely new principle into the law of partnership, which may possibly give rise to a conflict of law. The law of liability which exists at the present moment in this, as well as other British possessions, is practically the same as the law which obtains in England; and, considering the expansion of our trade, and that the contracts entered into between partners here will not necessarily be limited to parties residing in the colony, I think we should be careful, in introducing this novel proceeding, that we do not prejudice outside parties, and so prejudice ourselves. If we raise obstacles and difficulties in the way of contracts and partnerships we may do ourselves considerable injury. Of course it is a very comprehensive subject to deal with, and I do not desire to throw cold water upon the

measure, until we have had the matter thoroughly discussed and threshed out amongst ourselves in Select Committee. It is not necessarily a Lawyer's Bill—in fact, it is not positively a Lawyer's Bill; it is pre-eminently one for the mercantile and trading community to consider. I shall be glad, myself, if members of the House who are interested in trade will give us the benefit of their advice and experience, in arriving at what should be the proper conclusion upon the merits of Part IV. of the Bill. I shall myself approach the consideration of the subject with considerable interest and with an open mind, and with a desire to arrive at a proper and just conclusion upon the merits of this new principle sought to be introduced into our partnership laws. I intend to support the second reading of the Bill.

Motion put and passed.

Bill read a second time.

THE ATTORNEY-GENERAL (Hon. S. Burt) moved that the Bill be referred to a Select Committee.

THE SPEAKER: Unless there is any objection made, I think you might move that it be referred to the same Select Committee as the Arbitration Bill. We should not then require to ballot for the Committee.

THE ATTORNEY-GENERAL (Hon. S. Burt): I will do so. I move that the Bill be referred to the same Select Committee as has been appointed to consider the Arbitration Bill.

Motion put and passed.

#### JUSTICES APPOINTMENT BILL.

##### IN COMMITTEE.

Clause 1—Short title:

Put and passed.

Clause 2—Interpretation:

Put and passed.

Clause 3—Justices already appointed to be justices for the whole colony:

Put and passed.

Clause 4—"From and after the passing of "this Act, justices of the peace shall be "appointed and assigned to keep the peace in "each district, and may be assigned by a "Commission under the Seal of this colony, in "the form contained in the Schedule to this "Act, or to the like effect."

MR. LEAKE asked the Attorney-General whether this would do away with the necessity of publishing the Commission *in extenso* as is done now.

THE ATTORNEY-GENERAL (Hon. S. Burt): I think not.

MR. LEAKE: What I mean is this: under certain circumstances a fresh commission is issued, containing a whole list of justices appointed since the year One, with perhaps a few names left out, which is a convenient way of getting rid of them. I take it that won't be necessary now?

THE ATTORNEY-GENERAL (Hon. S. Burt): The same procedure will apply after the passing of this Bill, and a subsequent section deals with the subject.

Clause put and passed.

Clause 5—Justices need not be sworn again when a new commission is issued:

Put and passed.

Clause 6—Jurisdiction of justices:

Put and passed.

Clause 7—Justices not to act as coroners except in their own districts:

Put and passed.

Clause 8—"Every member of the Executive Council, every Judge of the Supreme Court, every Chairman of General Sessions, and every Police or Resident Magistrate shall, by virtue of his office, and without any further commission, appointment, or authority than this Act, be a Justice of the Peace of and for the whole colony."

MR. ILLINGWORTH moved, as an amendment, that after the words "Resident Magistrate" the words "or Mayor of any city or municipality" be inserted. It was customary in Victoria and other places that the person holding the position of Mayor should also be, *ex officio*, a justice of the peace; and it was useful and convenient in many respects that it should be so.

THE PREMIER (Hon. Sir J. Forrest): I hardly thought the amendment would meet with the approval of the House, because on two occasions last session the same proposal was rejected. Personally he had no particular objection to it. He recognised most fully that a man elected by his fellows to the responsible position of mayor of a town, or head of a municipality, was, as a rule, a man who was also fitted to be a justice of the peace. But it must be remembered that in this colony, as yet, many of our municipalities were very small—[MR. ILLINGWORTH: They will grow.]—and he questioned whether the proposal of the hon. member would be very popular even amongst those persons who were likely to become Mayors. He had himself heard some of



these gentlemen say they would prefer not to come under this *ex officio* appointment, and to be justices only while they were in office; they preferred to be appointed, if appointed at all, by the Governor, and appointed for life. The Government, however, had no very strong views on the subject. He was aware that some resolutions to this effect had been passed at the Municipal Conference, but he was also aware that a good many of the resolutions at that Conference were passed without those who voted for them caring very much about them. He thought that remark would apply to this particular resolution. As a rule, if a mayor or chairman of a municipality was a good man, and fitted for the position of a justice, he was appointed. But sometimes a man might not be fitted for the position. He recognised it was the fault of the ratepayers in putting such a man in office. On the whole, he did not think there was any necessity for adopting this amendment, at present at any rate. No doubt the time would come when the mayors of our larger towns at any rate would be also justices of the peace during their term of office, but he did not think it was worth while to press the matter at the present moment.

MR. LEAKE said he was in accord with the Premier on this occasion. If the object was to appoint the present mayor of Perth a justice of the peace, he really thought he would have supported the amendment, that gentleman being well known for his civic hospitality. But he did not think it would be wise to make it a rule that every mayor of every petty little township should also be a justice of the peace by virtue of his office, whether he was fitted for the position or not. The Mayor might be a very small man, in keeping with his township, or he might be a very big man in keeping with the size of his district; but it was quite possible he might not always be a person whom one would like to see on the magisterial bench. He might, for instance, be a person particularly interested in the licensing laws, and it would never do to have a mayor who was directly and personally interested in the licensing law too intimately connected with the judicial bench. Then again they might perhaps have a mayor who, though a worthy man in every other respect, might be summoned for assault to-day, and fined forty shillings to-morrow. It would not be a good thing to have that sort of man on the

judicial bench, *ex officio*. Again, it would be an invidious distinction to appoint a man a justice merely for the year he was in office, and then let him sink into merited or unmerited oblivion. Once a man got on the commission of the peace he ought to be good enough to be kept there. He did not think that, with our small municipalities, where the area of selection is necessarily small and restricted, it would be wise to make this provision. We might now and again get a man occupying the position of mayor, who, however admirably qualified he might be for cleaning drains and all that sort of work, was not quite good enough for the administration of justice.

MR. CLARKSON said he quite agreed with the Premier and the hon. member for Albany on this question. If the hon. member for Naunton had confined his amendment to the City of Perth or our chief towns, the hon. member would have had his support. But, in these "moving days" (as they were called) we had so many little municipalities springing up all over the country, that it was quite possible that the person holding the position of mayor or chairman of the municipality would not be a suitable person to act as a justice of the peace.

MR. LEFROY thought the appointment of justices was a responsibility that might well be left to the Government of the day. The position of a justice was not merely an honorary one; it was desirable that the person appointed should be capable of doing certain work, and should be prepared to discharge his magisterial duties. A mayor appointed *ex officio* would hardly have time to become acquainted with his duties as a justice before he had to retire from the position, when his term of office expired.

MR. A. FORREST failed to see that any good reason had been given for not accepting the amendment. The members of the Municipal Conference unanimously agreed to the proposal, except two of them who were already on the commission of the peace. Surely to goodness if the people of the town elect a gentleman as their mayor it was only reasonable to suppose that he would be a person fitted for the position. He did not care whether this provision was inserted in the present Bill or in the Municipal Bill, but it ought to be inserted somewhere, after the representations that had been made on the subject by the Municipal Conference. He

thought the Government might well agree to this honor being conferred upon the different municipalities. He did not think they would be likely to find many Mayors who would be any discredit to the position. These appointments as now made were not so very select that the Government need to be alarmed on that point.

MR. ILLINGWORTH said the arguments used against the proposal had utterly failed to carry conviction to his mind. The basis of them was that the Government of the day, at headquarters, were better able to judge of the qualifications of the men to be appointed as justices than the people who elected these men to fill the high and responsible positions of mayors of their towns. There was a doctrine which he was not prepared to subscribe to. He had no particular wish to press his amendment if the Government were adverse to it, but no valid arguments had been urged against the proposal, and he thought the Attorney General might well accept the suggestion, which he was sure would be received with favor throughout the country.

MR. RANDELL said, if mayors were to become justices of the peace by virtue of their office, he thought they ought to carry the principle further, and apply it to the chairmen of Roads Boards, who, in many parts of the colony, occupied quite as responsible a position as the chairman of the Municipality. Personally, however, he was not in favor of the proposal before the committee.

MR. WOOD said he opposed the proposal last year, and he was opposed to it now. He thought if a man was good enough for a justice he ought to remain in that position for life, or during good behaviour, and should not be submitted to the indignity of having to give up the position when his year of office expired. He thought it was better to leave the responsibility on the Government of determining who should be appointed justices, and that when men were appointed to that position they should continue there for life, or until they did something to warrant their removal. He did not think there was any reason to complain about the number of persons who were appointed justices in this colony; and, if the mayor of a town was a decent man at all, he was almost sure to be appointed a magistrate, unless there was some manifest objection to it.

Amendment put, and negatived on the voices.

Clause put and passed.

Clause 9—Governor may prohibit justices from acting as such:

Put and passed.

Clause 10—"No justice of the peace shall be disabled from acting in the due discharge and execution of his duties as such justice, in any matter relating to any city or town, by reason only of his being a ratepayer, or a member of, or interested in, the concerns of the corporation of any such city or town."

MR. LEBROY thought the same provision should be made to apply to justices who might be members of Roads Boards, and who without some such provision as this might be debarred from taking any part in the adjudication of cases which concerned the roads of a district, but whose presence on the bench might be very useful.

THE ATTORNEY-GENERAL (Hon. S. Burt), in order to meet the suggestion of the hon. member for the Moore, moved that the words "or Roads Board District" be inserted after the word "town," in the third line.

The amendment was put and passed, as also some verbal consequential amendments.

MR. A. FORREST said if this clause was intended to encourage mayors who were justices of the peace to sit on the Bench to deal with breaches of the municipal regulations, those who offended against those regulations would not have a happy time of it. Owners of stray cows, and other offenders would have reason to expect that they would not receive very lenient treatment.

Clause, as amended, put and passed.

The remaining clauses and the schedule were agreed to *sub-silentio*.

New clauses:

The ATTORNEY-GENERAL (Hon. S. Burt) moved that the following New Clause be added to the Bill:—

11. Every act done or purporting to have been done by or before a justice of the peace shall be taken to have been done within his jurisdiction, without an allegation to that effect, unless and until the contrary is shown.

Put and passed.

THE ATTORNEY-GENERAL (Hon. S. Burt) moved that the following New Clause be added to the Bill:—

12. No act done by a justice shall be invalid

merely by reason of the fact that at the time of doing such act he was outside the limits of his jurisdiction, and it shall not be necessary that any conviction, order, or other proceeding should appear to be made or done within the geographical limits of the jurisdiction of the justice making or doing the same.

Put and passed.

THE ATTORNEY-GENERAL (Hon. S. Burt) moved that the following New Clause be added to the Bill:—

14. A warrant of commitment or of remand shall be valid throughout the colony notwithstanding that the gaol or other place to which the defendant is committed or remanded, or any place into or through which he is taken by virtue of the warrant, is outside the limits of the jurisdiction of the justice by whom the warrant is granted.

Put and passed.

Preamble and title:

Agreed to.

Bill reported with amendments.

#### MESSAGE FROM HIS EXCELLENCY THE ADMINISTRATOR.

##### ASSENT TO BILLS.

The following message was delivered to and read by Mr. Speaker:—

ALEX. C. ONSLOW,  
Administrator.

The Administrator has the honor to inform the Legislative Assembly that he has this day assented, in her Majesty's name, to the following Bills:—

"An Act to repeal certain export duties."

"An Act to establish a Standard of time in Western Australia."

"An Act to confirm certain expenditure for the year ending 30th June, one thousand eight hundred and ninety-four."

"An Act to regulate and restrict the wearing of naval and military uniform."

"An Act to regulate the interest payable to depositors in the Post Office Savings Bank."

Government House, Perth, 17th July, 1895.

#### MUNICIPAL INSTITUTIONS BILL.

##### SECOND READING.

THE ATTORNEY-GENERAL (Hon. S. Burt): In rising to move the second reading of this Bill, I feel bound to say we are in the presence of an old friend. The Bill was introduced in 1893, in consequence of a resolution

of this House, passed in 1892, asking the Government to do so. The Bill in 1893 was read a second time, at a comparatively late date in the session; I think at the end of August, and was then laid aside and not proceeded with in committee. In 1894 the Bill was again introduced, and agreed to by both Houses, except upon two points. The chief point being the rule relating to the valuation of rateable property. The House will remember, we spent a very considerable time in committee over these clauses; as they did also in another place, and so the Bill went backwards and forwards several times. The question as to its merits was fairly well threshed out; and I trust on this occasion the House will without delay pass the second reading, and that the committee stage may be got through in a comparatively short space of time. It is only seven months ago since this Bill left our hands, and I do not suppose that many hon. members have changed their minds upon the question since then. I feel therefore on this occasion I need say but little, except for the benefit of any new members of the House. This Bill consolidates all the other Municipal Acts, and I think they number thirteen. Part 2 of the Bill contains the Constitution of Municipalities. A new feature in it provides that the Governor-in-Council may declare or proclaim any town or locality a municipality where there is sufficient rateable property within their boundary to yield an income of £300 a year, from a shilling rate. It also gives power to the municipality to appoint committees and sub-committees. Parts 3 and 4 largely deal with electors and their qualifications. These are much the same as under the present Municipal Act. Part 5 provides for the election of the Council; and deals with the votes of the electors for mayor and auditors. Electors may have from one to four votes as at present. We have introduced in Part 5 for the first time, the system of election by ballot, which I think is a distinct improvement on the old system. We also provide numerous clauses against bribery and corruption. Part 6 deals with the powers and duties of the Council, which are very much extended. Part 7 deals with the financial part of the machinery. What is new in that direction is this, a special audit may be appointed by the Governor-in-Council, or on the petition of fifty ratepayers, or by any creditor of any municipality. In the case of a special audit directed by the Governor-in-Council, the Go-

vernment has to pay the expenses. In that of a petition of ratepayers the municipality does it; and in the case of a creditor demanding it the expenses are paid by the creditor. In part 7, the clauses relating to rating are from 154 to 161. All rates are to be struck upon the annual value of the property. Clause 155 lays down certain rules as to the mode of making that valuation. The first rule being, "the annual value of any rateable land shall be deemed to be a sum equal to the full, fair, average estimated amount of rent at which such land might reasonably be expected to let from year to year, with a deduction of ten per cent. for repairs, etc." That clause was settled after a good deal of debate, and some amendments. The next rule is, "the capital value of rateable land shall be taken to be the probable and reasonable price at which such land in fee simple, exclusive of improvements, might be expected to sell at the time when valued for the purposes of this Act." The third rule is the annual value of rateable land, which as occupied shall in no case be deemed to be less than three pounds per centum upon the fair capital value of the fee simple thereof. Rule 5 provides for a minimum which shall be a capital value of not less than £30, or an annual value of not less than £2 10s. I think this clause 155 a very valuable clause indeed. In speaking of these rules, for ascertaining what is the annual value of property, and also its capital value, I would like to remind the House that section 3 is one upon which much discussion took place both here and elsewhere. The Government have retained the figures inserted by the Legislative Council last year, but they hold themselves at liberty to deal with those figures as they think best. In all probability I shall move an amendment to increase the amount, because we believe it is a little too low. As a rule, I think property should produce a little more than three pounds per cent. on its capital value. I think three and a half or perhaps four, would be the proper figure to insert in rule 3. We left the figures in the Bill, because we wished the House to see the exact point at which we had arrived last year; and so that the question should not be prejudiced by any new figures inserted. The Hon. the Commissioner of Crown Lands reminds me that the next sub-section fixes it at  $7\frac{1}{2}$  per cent., but I may say that is upon unoccupied land. We reduced that from 10 to  $7\frac{1}{2}$  per cent. As I said before, we

have fixed the minimum capital value at £30 and the annual value at £2 10s. This Bill is an exact print of the Bill as it came here from the Legislative Council last year, with two exceptions. I wish to say that, so that hon. members may know exactly where they are. If the Government had attempted to alter this Bill, over so little, it might have confused hon. members who would not have known how far the Bill had their concurrence; but this is exactly as it came back from the Legislative Council, with their amendments, which we approved. This print is exactly as this House approved it, with the exception of a small paragraph in the section dealing with the power of the Council to make byelaws. It is in Clause 99, at sub-section 27, "requiring and regulating the printing of all lamp-posts, bridle-posts, telegraph, telephone, and electric lighting poles, and for compelling the removal of any such poles which may be bent, dangerous, unsightly, or not in use." That is new, and is all that is new, with the exception of the insertion of the word "camels," in sub-section 30 of clause 99. The Council will have power to prohibit the leading or riding of camels in any particular street. With those two trifling exceptions, the Bill is an exact print of that which the House agreed to last year. I hope on this occasion we shall not have need to spend weeks in committee upon this Bill. I would remind hon. members, we have been through it now for two consecutive years; in fact, we have considered it for three years. I move the second reading of the Bill.

MR. LEAKE: I do not, of course, intend to oppose the Bill, because it must pass in some shape or form. I do desire to draw attention to one particular, which seems to me to be a blight upon the Bill. Hon. members will remember that during the progress of this Bill through committee, I and one or two others, took exception to those provisions which enable a Municipal Council to distrain for rates. The Attorney-General said it was too late in the session to make any alteration then. I do not wish to imply that the Attorney-General agreed with the views I expressed. I merely refer to this at the present moment, so that hon. members may be prepared for a debate when we get into Committee. One of my chief arguments against distrains is this; it lets in that unfortunate and unusual principle of making one man pay another man's debts; which is

very hard indeed. So long as we can secure payment to the municipality of rates, I do not think we need trouble ourselves about anything else. The rates should be a charge upon the land. When a person takes a house in all good faith, and in thorough ignorance of what has gone before, with perhaps a year's rates in arrear by the previous tenant, it is not right that he should be liable to have a distress put into his house within a short time for another person's default.

MR. A. FORREST: It has never been done.

MR. LEAKE: I say it has been done. It is my intention to debate this question, and I really hope the hon. member for West Kimberley, who represents the municipality of Perth, will consider this matter seriously, because it is really a most important principle. Many of us disagree altogether with the landlord's right to distrain. But to carry this principle on to the municipality is going altogether too far. I shall certainly raise a debate in Committee on this subject. I could talk about it for an hour and a-half, but I am sure hon. members do not want to hear me at that length to-night. I promise, them, however, I shall discuss this question, and if necessary at great length; and if hon. members will listen to arguments and are prepared to be convinced, I am sure they will agree with me.

Bill read a second time.

#### ADJOURNMENT.

At 9.52 p.m. the House adjourned until July 18th, at 4.30 p.m.

## Legislative Assembly,

Thursday, 18th July, 1895.

*Steamers not calling at the port of Dongarra—Railway Service Uniforms Contract—Overtime, etc., Accountant's branch, Public Works Department—Sewerage Scheme for Perth—Improvement of Brickfields, East Perth—Duties on Estates of Deceased Persons Bill; first reading—Return re Homestead Blocks—Return re Agricultural Areas—Justices Appointment Bill; third reading—Licensed Surveyors Bill; in committee—Message from His Excellency: Supply—Suspension of Standing Orders—Supply Bill: first reading; second reading; in committee—Goldfields Bill: second reading—Municipal Institutions Bill; in committee—Criminal Evidence Bill; adjourned debate; second reading—Construction of Mount Park Road—Adjournment.*

THE SPEAKER took the chair at 4.30 p.m.

PRAYERS.

### STEAMERS NOT CALLING AT DONGARRA. NEGLECT OF ADELAIDE S.S. COMPANY TO CALL AT PORT OF DONGARRA.

MR. PHILLIPS, in accordance with notice, asked the Premier, Whether he was aware that the vessels of the Adelaide Steamship Company had discontinued calling at the port of Dongarra. If so, would he give the reason for such discontinuance, and at once arrange for the steamers to again call at the port.

THE PREMIER (Hon. Sir J. Forrest) replied that he was informed by the Adelaide Steamship Company's agent at Fremantle that the company's steamers had ceased to call at the port of Dongarra as their vessels were now too large to enter that port with safety. The small steamer hitherto employed had to be withdrawn as it could not successfully compete with the larger boats of rival companies.

### RAILWAY SERVICE UNIFORMS.

MR. RANDELL, in accordance with notice, asked the Commissioner of Railways, Whether the conditions and stipulations of contract for the supply of Uniforms for the Railway Service had been strictly adhered to; especially No. 3.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied that the conditions and stipulations had been generally ad-