

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 11:30 o'clock p.m.

Legislative Council,

Tuesday, 2nd October, 1894.

Mullewa-Cue Railway: route of—Colonial Prisoners Removal Bill: second reading; in committee—Small Debts Ordinance Amendment Bill: in committee—Homesteads Act Amendment Bill: in committee—Municipal Institutions Bill: second reading—Registration of Births, Deaths, and Marriages Bill: first reading—Friendly Societies Bill: first reading—Marriage Bill: first reading—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the chair at 4 o'clock p.m.

PRAYERS.

MULLEWA-CUE RAILWAY—ROUTE OF.

THE HON. H. MCKERNAN, on behalf of the Hon. E. H. WITTENOOM, asked the Colonial Secretary what was the proposed route of the Mullewa-Cue Railway, after leaving Mullewa, as near as the Government could say?

THE COLONIAL SECRETARY (Hon. S. H. Parker) replied: From Mullewa to Yalgoo, from thence to Mount Magnet, and from thence to Cue.

COLONIAL PRISONERS REMOVAL BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): The object of this Bill is simply to give power to the Governor from time to time to remove local prisoners from one gaol to another. Under the local statutes there is full provision to enable the Governor to order removals in

the case of convicts, but there is no such power as regards local prisoners, many of whom have been removed without any proper authority for it. I move the second reading of the Bill.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

The Bill was considered in committee, agreed to without amendment, and reported.

SMALL DEBTS ORDINANCE AMENDMENT BILL.

IN COMMITTEE.

Clauses 8 and 9 agreed to.

Clause 10—Service of process:

THE HON. F. T. CROWDER moved that the words "out of whose Court such process shall issue," be inserted between the words "magistrate" and "and." He said: As the clause stands it reads that any summons, &c., may be served by any member of the police force, the plaintiff, his solicitor or clerk, or by any person authorised by the magistrate; but it does not state by what magistrate.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I understand that the hon. member is desirous of making it clear that the authorising magistrate must be the magistrate of the Local Court out of which the summons or process issues. The word "magistrate" here has a technical meaning, and means the judge of the Local Court, but not a justice. There is, therefore, no occasion for the amendment.

THE HON. F. T. CROWDER: There is more than one local court in the colony. If the clause is not altered the magistrate in Perth may give authority for the service of a summons or process issued at Geraldton.

THE COLONIAL SECRETARY (Hon. S. H. Parker): If my view be correct, this cannot be, because it says any summons or other process of a Local Court, and then it says *the* Magistrate, which seems to me to mean the Magistrate of the Local Court where the process is issued.

THE HON. J. C. G. FOULKES: The 6th clause says:—"A Magistrate of a Local Court shall have jurisdiction to make any order, or exercise, on an *ex parte* application, any authority or jurisdiction

"in any action or proceeding pending in any Court of which he is a Magistrate which, if the same related to an action or proceeding pending in the Supreme Court, might be given, made, or exercised by a Judge of the Supreme Court in Chambers." Here the Bill takes care to provide that the magistrate intended shall be the magistrate of his own Court, but as Clause 10 reads it may be any magistrate. Although the Colonial Secretary may be perfectly right in his construction, it is, nevertheless, open to doubt, and we should endeavour to remove such doubts.

THE HON. S. J. HAYNES: I agree with the interpretation of the Colonial Secretary. In fact, I cannot see how the words can be applied in any other way.

THE HON. J. W. HACKETT: I think the words are plain enough. There is as much danger in being too explicit as not being explicit enough.

Amendment put and negatived.

Clause passed.

Clauses 11 to 13 agreed to.

Clause 14—Taxation of costs:

THE HON. F. T. CROWDER: I move that the words "no costs shall be taxed by either party unless notice has first been given to the other side." I have been asked to bring this amendment forward, because on many occasions advantage has been taken to tax the costs in the absence of the opposite side.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I have no objection to this amendment, although I should have thought that there would have been some such rule in the Magistrate's Court.

THE HON. S. J. HAYNES: I believe this amendment is met by the rules of the Local Court, but I am not sure.

Amendment put and passed. Clause, as amended, agreed to.

Clauses 15 to 33 agreed to.

Clause 34—Vacation:

THE HON. R. G. BURGESS: I move to strike out the word "twentieth" and insert "twenty-fourth." From December 20th to Christmas is the most important time of the year, and I do not see why the Courts should then be closed.

THE HON. F. M. STONE: I think it very necessary that provision should be made for a vacation. As things are now, nothing is done during this period, all the cases being adjourned over the holidays by consent of the parties.

THE HON. R. G. BURGESS: And during this time people can get away, leaving their creditors to lament.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I might point out that the Local Courts have no power to prevent people going away, but there is an Act in force by which people may be stopped at any time if they owe over £5. Besides this, even if the date is made the 24th instead of the 20th, people who wished to run away could easily wait until after that date. In the country the amendment will make no difference, because the Courts only sit once a month. I trust, therefore, my hon. friend will not press his amendment, and allow the hard-worked court officials of Perth and Fremantle to have a short period of relaxation during the hot weather, so that they may betake themselves to the country, where many hon. gentlemen of this House enjoy life all the year round.

THE HON. J. C. G. FOULKES: The period referred to is the Christmas season of the year, when we should all be as merciful to one another as we can be. The Supreme Court has a regular vacation, and I do not see why the Local Court should not have one.

THE HON. F. T. CROWDER: I shall support the clause as it stands, because I think it would be better for all of us if the Courts were to close for six months.

Amendment, by leave, withdrawn.

Clause passed.

Clause 35 agreed to.

Progress was then reported, and leave given to sit again.

HOMESTEADS ACT AMENDMENT BILL.

IN COMMITTEE.

Clause 1 agreed to.

Clause 2—Governor may order that certain lands shall be available for homestead farms:

THE HON. C. A. PIESSE: I move, as an amendment, that the first sub-clause be struck out, and that the following be inserted in lieu thereof:—"All Crown lands within the South-Western Division of the colony, and also all Crown lands within the Eastern or Eucla Division of the colony, are hereby open for selection as free homestead farms, under the provisions of 'The Homesteads Act, 1893.'" I think most hon. members

will agree that this is a necessary alteration. I am not prepared to say much on the subject, because the amendment speaks for itself.

THE COLONIAL SECRETARY (Hon. S. H. Parker) moved that progress be reported.

Question put and passed.

MUNICIPAL INSTITUTIONS BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): The question of amending the law relating to municipalities has been before the country and the Government for some time. The City Council, which presides over the destinies of Perth, prepared a Bill about two or three years ago, which was submitted to the Government, and that Bill is the one which I now hold in my hand. I may also say that the Bill has been discussed by the various municipalities, and also by a Conference which was held in Perth. It will be observed that the Bill is a consolidation of the law at present in existence, with some amendments of more or less importance. By it the present municipalities are preserved, as also the constitution of the municipalities. It will be observed that where a municipality has under 1,000 ratepayers the council is to consist of a chairman and six councillors; where the number is over 1,000, and does not exceed 5,000, there is to be a mayor and nine councillors; and where the number is over 5,000 there is to be a mayor and three councillors for each ward. Until, therefore, a municipality has a ratepayers' list of over 1,000 the title of mayor is not to be conferred upon the chairman of the council. Then power is given to the Government to declare municipalities, as well as to declare wards. I do not think, however, that it will be necessary for me to go through the various clauses of this Bill, because they can be better discussed and explained in committee. I shall, therefore, only now deal with the amendments which have been made to the existing law. Firstly, with regard to the qualification of electors, I may say that it is the same as exists under the present law, with the exception that the principle which allows property to be represented

in the election of the mayor or chairman or auditor is extended, to some extent, to apply also to the election of councillors; and, in future, every person who owns rateable property of an annual value exceeding £50 will be entitled to two votes for the council. At present the law relating to the election of the mayor, or chairman, or auditor is that every elector whose property is rated at an annual value of £25 is entitled to one vote; over £25, and not exceeding £50, two votes; over £50, and not exceeding £75, three votes; and over £75, four votes. The mode of making up the lists is preserved, but when we come to the elections, instead of there being open voting, as it is now, the municipal elections will be conducted in the same manner as the parliamentary elections—by ballot. There is a provision that a person who is more than 20 miles distant from a polling place may vote by proxy. There is a similar provision to this in regard to parliamentary elections. Then candidates are required to give seven days' notice of their intention to contest a seat; and there are various other provisions, taken mainly from the Electoral Act, relating to bribery and corruption, so that no longer will candidates for municipal honours be permitted to commit acts of bribery or corruption, any more than candidates for parliamentary honours. I am happy to say there is one provision in the Electoral Act which has not been embodied in this Act, and that is the driving of electors to the poll, so that, as now, the candidate will be at liberty to engage all the cabs and conveyances he can muster for the purpose of taking electors to the poll. It has often struck me that if we abolished this provision in regard to parliamentary elections it would be a good thing, because it would tend to make many more electors go to vote. Power is given to the Supreme Court to inquire into election matters, and to determine, in the event of a petition being lodged against a successful candidate, whether the election is void or not. The 99th clause of this Bill gives very full powers to municipalities to make, publish, alter, amend, modify, or repeal the by-laws for a great number of purposes. Nearly every purpose is mentioned in this clause, and if any honourable gentleman can

suggest any subject that has been omitted, I shall be only too happy to have his desires carried out. By clause 105 power is given to the councils to grant licenses to persons for the purposes mentioned in the clause, and it is further provided that if any person does any of the things mentioned without a license he may be summarily punished and fined in a sum not exceeding £20. Clause 152 defines the lands and buildings on which no rate may be struck. There has been considerable discussion as to this clause in the Legislative Assembly, the result of which has been that the provisions here set out have been adopted, and I think they will meet the wishes of hon. members. I should now like to draw attention to Clause 155, which provides for the mode of valuation of town lands. In certain cases where land is unoccupied for a period of six months previous to the time of making the valuation, the annual rateable value is to be $7\frac{1}{2}$ per cent. on the capital value. I do not think anyone can complain of that, because the value of land as a rule is what it will let for, and that is what is to be deemed the annual rateable value. Upon this the rates are to be calculated, less a deduction of 10 per cent. for outgoings. Then the capital value of the rateable land is to be taken as the probable and reasonable price at which such land, exclusive of improvements, might be expected to sell for at the time it is valued. It is also provided that the annual rateable value of land which is occupied is in no case to be deemed to be less than $2\frac{1}{2}$ per cent. upon the fair capital value. When the Bill comes into committee I intend to propose an amendment to this, because it seems to me that $2\frac{1}{2}$ per cent. is too low. We know full well that no owner would care to have property which is only worth $2\frac{1}{2}$ per cent. on its value, and I propose therefore to substitute 3 per cent. instead of $2\frac{1}{2}$. Then, if $2\frac{1}{2}$ per cent. be too small a minimum for land occupied, $7\frac{1}{2}$ per cent. is too high for land unoccupied; and I shall propose also in committee to reduce this to 6 per cent. There has been a difference in Perth in rating land where a whole grant is occupied—a small piece by a house and the rest as a garden. The municipal council has rated not only the house but the vacant land in con-

junction with it. This Bill provides that no land shall be considered unoccupied if it be portion of an original grant from the Crown, or let or occupied with any part of the same lands belonging to the same owner that are occupied and rated. And it is further provided that no separate part of any rateable land shall be valued at a capital value of less than £30, or at an annual rateable value of less than 50s. It is obvious, therefore, that as soon as this Bill becomes law it will be necessary, by virtue of its provisions, for every council to employ valuers to value the property within the bounds of the municipality. These will be persons appointed by the council, but not members of the council, or persons interested in the council. They will be required to make independent valuations, but once the valuations are made it will not be necessary that they should be made annually, for the councils may, if they think fit, adopt the valuations of the previous year. Power is given to the valuers to enter on premises and make inquiry as to the rent and outgoings. There is very little difference between the manner of making up the rate book under this Bill and under the existing law. Having made up the rate book and declared a rate, the municipal council is required to give notice of the rate to each individual ratepayer, and a notice that if the rate be not paid the council may levy a distress; but within fourteen days after receipt of such notice the ratepayer has power to appeal against such rating. At present there is an appeal allowed, but it is rather a cumbersome process, and the mode of appeal is very much simplified by this Bill. Then, this Bill provides that a person who holds property and subdivides it for sale, must send a plan of the subdivision to the municipal council, and must specify the names and addresses of the purchasers of any of the subdivisions. Then there is a provision by which the Governor may appoint special auditors at the request of fifty ratepayers; that is, if the ratepayers be dissatisfied with the conduct of affairs by the council and its officials, they may demand a special audit. Clause 226 provides how contracts are to be made, and the provisions are very similar to those in the Companies Act. I think I

have now mentioned the principal alterations in this Bill, but I shall be happy to afford any further information in committee, if necessary. I have, therefore, now to move that the Bill be read a second time.

THE HON. F. T. CROWDER: I have much pleasure in seconding this motion. I take it, it must be gratifying to you, sir, after the many years you have devoted to the interests of the city of Perth, and the trouble you have taken for its advancement, to preside here when this Bill is brought forward. I may say that it is of more than passing pleasure to me, inasmuch as I was the instigator of this Bill being drawn. It is now so far back as February, 1889, that I, in the municipal council, moved that a committee be appointed to consolidate the Municipal Acts. The motion was carried, and we gave many months of hard labour to this work. We drafted the Act, and subsequently the council voted £100 to Mr. Haynes to put it into legal form. Mr. Burt was also paid £25 to peruse it, and he returned it to the council as a sound and good Act. Since that time—five years and a half ago—the measure has been lying dormant in the Government offices. Now, however, we have it before us; and I believe when it is passed it will be a good thing not only for Perth but also for the municipalities of the colony generally. I have lately read it over very carefully, and, with a few alterations, I believe it will give us all we require.

THE HON. S. J. HAYNES: I, too, have much pleasure in supporting the second reading of this Bill, for it will not only be of practical use to the municipalities but it will also be of material assistance to the legal practitioners, who now have to keep the various Acts which it consolidates, written up. I do not, however, altogether agree with clause 155, which deals with the rating; but in committee we can alter it so as to make it meet the wishes of the municipality.

THE HON. H. MCKERNAN: As a member of the Perth City Council perhaps it will not be out of place for me to say a few words. Unlike the hon. member, Mr. Crowder, I was not one of the originators of the Bill, but if I had been I should have done my best to have had omitted some of the clauses we see in it. However, I congratulate the

Government on introducing it, for it is a step in the right direction, and, with some eliminations in committee, it will meet the object for which it is intended. The Hon. the Colonial Secretary referred to the clauses relating to bribery and corruption at municipal elections, but I think the Bill as it stands holds out the greatest incentive to what is not wanted, and, therefore, the clauses may well be wiped out. I notice in the provision for making by-laws no mention is made of regulating the width of tyres. In America, where they use narrow wheels, the streets and roads are in a bad state, but in France, where broad tyres are used, the streets are in a splendid condition. I think, therefore, a clause might be inserted empowering the municipalities to regulate the width of tyres. With these remarks I will accord my support to the Bill.

Question put and passed.

Bill read a second time.

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

FRIENDLY SOCIETIES BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

MARRIAGE BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

ADJOURNMENT.

The Council, at 5:30 o'clock p.m., adjourned until Wednesday, 3rd October, at 4:30 o'clock p.m.