

of the colony are flourishing. The railways are doing better than they ever did before; and if you only give them a chance now, and sufficient rolling-stock is provided, they will do still better. Gold, tin, coal, and everything in fact seem to me to be prospering. In commending the second reading of the Bill to the House, I again ask what reason is there for the pessimistic speech of the member for Central Murchison (Mr. Illingworth), or for the wailing speech of the member for Albany (Mr. Leake)?

MR. GEORGE (Murray): I move the adjournment of the debate.

Motion put and passed, and the debate adjourned.

#### ADJOURNMENT.

The House adjourned at six minutes past 11 o'clock until the next day.

### Legislative Council,

Tuesday, 28th November, 1899.

Papers Presented—Question: Mail Delivery in Perth—Bank Holidays Act Amendment Bill, third reading—Constitution Acts Amendment Bill, in Committee, postponed clause, etc., reported—Subiaco Tramways Bill, first reading—Fisheries Bill, in Committee, Clause 6, progress—Mines Regulation Amendment Bill, first reading—Bills of Sale Bill, Assembly's Amendment, etc.—Adjournment.

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

#### PRAYERS.

#### PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Third Annual Report of the Acclimatisation Society; 2, Return of Expenditure on Eastern Goldfields during the last four years (ordered on motion by Hon. C. E. Dempster).

Ordered to lie on the table.

#### QUESTION—MAIL DELIVERY IN PERTH.

HON. R. G. BURGESS asked the Colonial Secretary: 1, If the Government intend to make any alteration in the delivery of mails at Perth delivered by the second daily train from Beverley, also by the Albany daily train to Fremantle, as at present all letters from places along the line arrive in Perth late at night, and no delivery takes place till half-past 8 next morning, and very often not until half-past 10 the following morning, which thus renders the service useless: 2, If the Government intend making better provision for the carriage of loose letters from railway sidings, as the present system is most unsatisfactory.

THE COLONIAL SECRETARY replied:—1. (a.) The late arrival of the second train daily from Beverley, and the Albany through train, at 6 p.m. and after midnight respectively, does not admit of a postal delivery on the same day, but letters are sorted into the private boxes and available to their owners up to 10 p.m. daily. (b.) The time of the morning delivery is contingent upon that of the arrival at Perth of the Eastern goldfields express. 2. Each siding is provided with a private mail bag, and anything outside of this arrangement is a matter for the consideration of the Railway Department.

#### BANK HOLIDAYS ACT AMENDMENT BILL.

Read a third time, on motion by Hon. F. T. CROWDER, and transmitted to the Legislative Assembly.

#### CONSTITUTION ACTS AMENDMENT BILL.

##### IN COMMITTEE.

Consideration resumed from 22nd November, at postponed clause.

Clause 28—Disqualification for membership of either House:

THE COLONIAL SECRETARY moved that Sub-clause 5 be struck out, and the following inserted in lieu thereof:—

Be an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy, or a debtor who has taken the benefit of any Act relating to bankrupt or insolvent debtors, the proceedings being subsisting; or.

This was taken almost word for word from the Commonwealth Bill. A person should not be punished if he made a private arrangement with his creditors and cleared himself before the time for taking his seat arrived. A man might by some accident, or through the unkindness of a person to whom he was indebted, have to make an arrangement with his creditors; and this should not exclude him from becoming a candidate, nor from sitting as a member.

**THE CHAIRMAN:** The hon. member had an amendment already before the Committee

**THE COLONIAL SECRETARY** asked leave to withdraw the previous amendment.

Previous amendment, by leave, withdrawn.

**THE COLONIAL SECRETARY** moved the amendment he had already read and explained.

**HON. F. M. STONE:** The amendment was all right down to the words "subsisting receiving order in bankruptcy"; but if the subsequent part were adopted as drawn, the matter would be in a muddle. Under the present Act, a debtor could call a meeting of his creditors, and either make an assignment of his property for the benefit of creditors, or a composition under an act of assignment. Although the debtor would then have what was equivalent to a discharge, yet bankruptcy proceedings would still be subsisting, this being necessary in order to realise the assets of the estate and have the accounts of the trustee passed. The clause should be postponed until one could look into it and see the framer of it. He could see what the framer was driving at, but the amendment did not go far enough. The amendment had only just been placed in his hands.

**THE COLONIAL SECRETARY:** There was no objection on his part to a postponement. The hon. member seemed to have had no opportunity of conferring with the law officers of the Crown, and this was to be regretted. The time was short, and an effort should be made to arrive at a conclusion upon this important matter. This question had taken a vast amount of consideration, and an endeavour had been made to meet the wishes of members of this House, especially of Mr.

Stone. It would be seen that the words "assignment" and "composition" were left out, because it would be going too far to disqualify a man who in a temporary difficulty might make a private arrangement with his creditors, and be released next day, not coming under the cognisance of the Court at all. He understood the view of the House was that if a debtor came under the cognisance of the Court in any shape or form, his seat should be vacated, and an attempt had been made to provide for that. It was intended to carry this further by an addition to Clause 27 in these words:—

Whenever a vacancy occurs by reason of any of the disqualifications hereinafter mentioned in Section 28, Paragraph 5, it shall be the duty of the Registrar in Bankruptcy forthwith to give notice thereof in writing to the President or the Speaker, as the case may be, if within the colony, and otherwise to the Governor, and on receipt of such notice the President or Speaker, as the case may be, if within the colony, or otherwise the Governor, shall forthwith issue a writ for the election of a member to fill the vacancy.

This addition would meet the point raised by Mr. Stone, that it was undesirable that a vacancy should be moved for by a member of the House, and a motion passed by the House. It was undesirable to take away the power of the resolution, because there were many other things in relation to which it was, he considered, absolutely necessary that a motion should be passed. A motion would be necessary in the case of a man who became of unsound mind, or took any oath or made any declaration or acknowledgement of allegiance, obedience, or adherence to any foreign prince or power; or failed to give his attendance in the Legislative Council, or the Legislative Assembly, as the case might be, for two consecutive months of any session, without permission. He did not wish to set his opinion against that of Mr. Stone, but, as far as he could see, this addition to Clause 27 exactly met the case of bankruptcy as involving a member rising and moving that the seat should be vacant.

**HON. W. T. LOTON:** The suggested amendment of Clause 27 would not, it appeared to him, meet the case which had been referred to by Mr. Stone—if there was anything in that view of the case—because the President, or Speaker, or Governor, as the case might be, would

have to decide whether the proceedings were subsisting.

THE COLONIAL SECRETARY: No.

HON. W. T. LOTON: That was what they would have to decide before they could issue a writ.

THE COLONIAL SECRETARY: No.

HON. W. T. LOTON: The proposed amendment would not meet the difficulty referred to by Mr. Stone, if the difficulty really existed. He was not quite sure whether it did or not, but so far as he could see, his mind ran in the same direction as Mr. Stone's.

THE CHAIRMAN: All the authority the President or Speaker would have would be a certificate from the Registrar as provided for in the further amendment which the hon. member had just read.

HON. F. M. STONE: Let the clause be postponed.

THE COLONIAL SECRETARY: There was no objection on his part.

HON. F. M. STONE: An effort would be made by him to get the framer of the Bill to meet him to-morrow morning.

HON. W. T. LOTON: There were several other amendments to be made, were there not?

THE COLONIAL SECRETARY: Yes. Was it possible to pass this, so as to get through these amendments and deal with the question on recommitment, in order to save time?

HON. W. T. LOTON: The clause might be dealt with as proposed by the leader of the House, and the Bill passed *pro forma*, and then on recommitment other amendments could be dealt with.

THE COLONIAL SECRETARY: The Bill must be recommitment.

HON. F. WHITCOMBE: Were members to understand that the Bill would be recommitment?

HON. W. T. LOTON: It could be recommitment if required.

Amendment put and passed, and the clause as amended agreed to.

New clause.—Election of President:

THE COLONIAL SECRETARY moved that the following be added, to stand as Clause 11:

Whenever the office of President of the Legislative Council becomes vacant, the Council at their first meeting thereafter shall elect one of their members to be President, and the President so elected shall preside at all meetings of the Council.

This was to provide for a contingency which perhaps had not occurred hitherto. There was no provision by which the Council could elect the President if the office became vacant.

Question put and passed.

New clause—Absence of President provided for:

THE COLONIAL SECRETARY moved that the following be added, to stand as Clause 12:

In case of the absence of the President upon leave of absence granted to him by the Legislative Council, or by reason of illness or other unavoidable cause, the Council shall thereupon elect some other member to fill the office and perform the duties of the President during such absence.

Question put and passed.

New clause—Absence of Speaker provided for:

THE COLONIAL SECRETARY moved that the following be added, to stand as Clause 22:

In case of the absence of the Speaker upon leave of absence granted to him by the Legislative Assembly, or by reason of illness or other unavoidable cause, the Assembly shall thereupon elect some other member to fill the office and perform the duties of the Speaker during such absence.

Question put and passed.

Schedule:

THE COLONIAL SECRETARY moved that in lines 13 and 14 of the description of the Gascoyne Electoral District, the words "through the trigonometrical station on Robe Hill" be struck out.

Amendment put and passed.

THE COLONIAL SECRETARY further moved that in the description of the South-West Mining Electoral District (part 1, Donnybrook), the words after "lines" in line 1 be struck out, and the following inserted in lieu thereof:

Starting from the south-western corner of Reserve 6,321; thence north about 60 chains to the Boyanup-Bridgetown Railway Reserve; thence by the western boundary of said Railway Reserve in a general north-westerly direction about 14½ miles to its intersection with the eastern boundary of Wellington Location 239; thence North about 10 chains to the left bank of the Preston River; thence by said river in a general north-easterly direction about 2½ miles to the north-eastern corner of Reserve 645A; thence north about 3 miles; thence west about 7 miles to the eastern boundary of Boyanup-Bridgetown Railway Reserve; thence by said Railway Reserve in a general south-easterly direction about 3½ miles

to a point north of north-west corner of Wellington Location 836; thence south about 13½ miles; thence east about 9¼ miles to the point of commencement.

Amendment put and passed.

HON. F. WHITCOMBE: Was it competent for the Committee to add to the schedule a provision for the appointment of a third Judge of the Supreme Court, and for an alteration in the Ministerial salaries?

THE CHAIRMAN: That could not be done.

Schedule as amended agreed to.

Preamble and title—agreed to.

Bill reported with amendments, and the report adopted.

#### SUBIACO TRAMWAYS BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

#### FISHERIES BILL.

##### IN COMMITTEE.

Consideration resumed from 22nd November.

Clause 6—Offences:

THE COLONIAL SECRETARY moved that Sub-clauses *a* and *b* be struck out. He intended to move an amendment in Clause 14, extending the powers of the Governor in regard to making regulations.

Amendment put and passed.

THE COLONIAL SECRETARY moved that in line 3 of Sub-clause *c* the words "three inches from knot to knot" be struck out; and "may be prescribed by the regulations" inserted in lieu thereof.

HON. F. M. STONE: This provision would apply to the whole of the colony.

THE COLONIAL SECRETARY: An amendment would be moved later to alter that.

HON. F. M. STONE: These amendments should be in print before hon. members. It was difficult to discuss amendments which were not on the Notice Paper. In the past it had been found that when amendments had been proposed and carried without proper notice having been given of them, clauses had been made unworkable. It seemed to him that the Colonial Secretary wanted to force the Bill through.

THE COLONIAL SECRETARY: No.

HON. F. M. STONE: Many discrepancies and instances of bad drafting had been pointed out by him, and in the face of that a notice should be given of any alterations. Let us have a Bill which would be workable.

THE COLONIAL SECRETARY: As far as possible, he would endeavour to meet the wishes of the hon. member. He was unable to get these proposed alterations mentioned in the Notice Paper because he had only got them in their present state to-day, although they had cost him a considerable amount of time in considering them and in discussing them with the Secretary of the Crown Law Department. He proposed to add a new clause to stand as Clause 21, to read as follows:

The Governor may from time to time, by proclamation published in the *Government Gazette*, exempt any portion of this colony specified in such proclamation from the operation of this Act, and may in like manner revoke such proclamation.

It was thought that the Bill should be more elastic, and that the Governor should have power to make regulations to suit the various circumstances of the waters of this colony. The whole of the amendments were made with that object, and in his opinion none of them were difficult to grasp. We had already struck out from the interpretation clause the words "knot to knot," and this was really a consequential amendment. He had a small amendment to make in Clause 14, this being to insert after the word "nets" in line 2 of paragraph 3, "either generally or for certain places or times." This would make the Bill exceedingly workable. He did not see any other way of doing that. He had endeavoured to meet the hon. member to the best of his ability. He regretted he was unable to get the amendments mentioned on the Notice Paper; he did his best, but was unable to accomplish it.

HON. F. M. STONE: The amendment seemed very simple, but it certainly would not overcome the objection he had pointed out. The Governor could not by regulation override the Act. A regulation made by the Governor was for the purpose of carrying out the Act, and any section of the Act. In Sub-clause *c* of Clause 6 we had the words "in any

Western Australian waters," and the interpretation clause said, "'Western Australian waters' includes every brook, creek, river or stream of water, lake, or lagoon, whether salt or fresh, and every estuary and arm of the sea, and the sea to three miles from high-water mark." The Governor could not by regulation override that. Day after day regulations were upset in Court because they had gone too far. Sub-clause c of Clause 6 said "In any Western Australian waters, stakes, fixes, or otherwise sets any net the mesh of which is of less dimension than three inches from knot to knot," and so on. The Governor could not alter that. If the Governor by regulation were to say with reference to certain creeks that this clause should not apply, that would be overriding the spirit of the clause.

THE COLONIAL SECRETARY: No, no.

HON. F. M. STONE: Such was the case. He had had considerable experience with reference to regulations, and knew how difficult it was when one was trying to avoid these pitfalls. The Bill was framed in an extraordinary way. If Clause 21 were useless the Bill would apply to the whole colony.

THE COLONIAL SECRETARY: Authority was given to prescribe in the regulations the size of the mesh.

HON. J. W. HACKETT: Mr. Stone was dealing with the question of Western Australian waters, and said that the places could not be altered by proclamation.

THE COLONIAL SECRETARY: With regard to the latter part of Clause 6, as to whether it was desirable for the net to stretch across the whole channel, or whether it should not, it was strongly urged that it should not. Clause 14 provided that the Governor might make regulations for the carrying out of the Act.

HON. F. M. STONE: That would not override the Act.

THE COLONIAL SECRETARY: Under the circumstances he thought it would be best for him to move to report progress. He thought it would be well if Mr. Stone would give him assistance with the Bill instead of setting himself decidedly against it, as apparently he had done, though he (the Colonial Secretary) did not know for what reason. The Bill was vouched for as absolutely needed for

the protection of an article of food of great value. It was only right that the hon. member should give him some little assistance. However, he suggested that progress should be reported.

HON. F. M. STONE: It was a matter for regret that the Colonial Secretary seemed to think one was blocking the Bill in any way. He told the House just now that he had not the time to devote to the Bill. It would take him two whole days to go through the Bill and properly fix it up with the assistance of the inspectors. He informed the House within the last few minutes that he would meet Mr. Sayer on another matter, and he was going out of his way considerably to do that. He had taken a great interest in this Bill, and if he had the time to spare he would certainly give it; but when a Bill of this nature was brought in at the tail-end of the session and an endeavour was made to force it down the throats of members, all he could do was to get up in this House and point out to the best of his ability the absurdity of what was proposed. If it were a small Bill that would occupy half-an-hour, he would be happy to give the time, but, as he had said, it would take two days to put this Bill into order.

HON. J. W. HACKETT: It was almost impossible to get through this Bill and put it into a satisfactory state before the prorogation. He would suggest that the hon. member should so far accede to the wishes of the Colonial Secretary as to give a few minutes after the rising of the House.

THE COLONIAL SECRETARY: In his opinion it would not take three minutes to alter the clause.

HON. J. W. HACKETT: It was not so much a matter of alteration as agreeing on what clauses should be saved in the Bill this session. Most of the Bill could be allowed to go by the board, and we could get a more comprehensive measure next year. The clauses relating to licenses of boats and fishermen and some of the powers of the proclamation, if not all, should be embodied in the measure this year, if passed into law. Five minutes would settle the question, but five minutes would not settle it if the Bill as a whole had to be retained.

HON. F. M. STONE: If what was suggested could be done, he would be

only too happy to fall in with the idea. Clause 5 provided that no person should fish with a net, except for shell-fish, unless he were the holder of a fisherman's license, and that was struck out on the motion of Mr. Matheson, who pointed out that it would affect small landing and fishing nets. His (Mr. Stone's) idea was that any person who held a seine net should be licensed. He endeavoured to point out these things, but when he saw no notice was taken of it, and that the Colonial Secretary seemed to think he was blocking the Bill, he sat down and let the matter pass. That proviso, which was a very good one, had been struck out. It was a proviso that any person who had a seine net should be licensed within certain waters—not the whole of the colony. Inspectors wanted to know the nets, so that they could tell who were out fishing. We wanted to exempt these little nets. It would take half-an-hour to draw that little clause.

THE COLONIAL SECRETARY said he allowed the proviso to go because he was requested to do so. If we could apply the present Act to the licensing of boats, this would meet the circumstances of the case, and an amending measure could be brought in early next session.

On motion by the COLONIAL SECRETARY, progress reported and leave given to sit again.

#### MINES REGULATION AMENDMENT BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

#### BILLS OF SALE BILL.

##### LEGISLATIVE ASSEMBLY'S MESSAGE.

The Legislative Assembly having disagreed to several of the amendments made by the Council in the Bill, also having amended one amendment, the Assembly's reasons for the same were now considered.

##### IN COMMITTEE.

HON. F. WHITCOMBE moved that the Committee do not insist on amendments numbers 5, 6, and 16.

Question put and passed.

No. 8, Clause 8, Sub-clause (3), line 6, strike out all words after "Registrar," and insert in lieu: "Upon the filing of

such copy bill of sale, the same shall be registered by the Registrar":

HON. F. WHITCOMBE moved that the Council's amendment be insisted on, as it provided for the lodging of caveats.

Question put and passed, and the amendment insisted on.

No. 13, Clause 12, strike out the whole; also No. 18, Clause 53, Sub-clause 2, strike out the whole:

HON. F. WHITCOMBE moved that the Committee insist on both these amendments, which had reference\* to the lodging of caveats.

Question put and passed.

No. 17, Clause 34, strike out the whole:

HON. F. WHITCOMBE moved that the Council's amendment be insisted on. The clause referred to the power of a creditor to sell goods the subject of a bill of sale.

Question put and passed.

Amendment No. 19 (third Schedule, amended):

HON. F. WHITCOMBE moved that the Assembly's amendment on the Council's amendment be agreed to.

Question put and passed.

Resolutions reported, and the report adopted.

#### ADJOURNMENT.

The House adjourned at 5:40 o'clock until the next day.