

MARRIAGE BILL.

IN COMMITTEE.

On the motion of the ATTORNEY GENERAL (HON. S. BURT), the Bill was passed through committee, with further amendments agreed to *pro forma*, for the purpose of having printed in their proposed order the several amendments of which he had given notice. He said this course would enable hon. members to see, in a convenient form, the exact bearing of the amendments which he had framed for giving effect to what he understood, from the previous discussions in committee, was the general wish of hon. members.

Bill reported, with the further amendments.

Report adopted.

Ordered—That the Bill be reprinted, and that it be recommitted on Tuesday, 11th September, 1894.

ADJOURNMENT.

The House adjourned at 10-23 o'clock, p.m.

Legislative Council,

Thursday, 6th September, 1894.

Excess Bill, 1893: second reading; in committee—Stirling Street (Fremantle) Closing Bill: second reading; in committee—Patents, Designs, and Trade Marks Acts Amendment Bill: second reading; in committee—Scab Act: working of; appointment of joint committee—Employers' Liability Bill: in committee—Adjournment.

THE PRESIDENT (HON. SIR G. SHENTON) took the chair at 4-30 o'clock, p.m.

PRAYERS.

EXCESS BILL, 1893.

SECOND READING.

THE COLONIAL SECRETARY (HON. S. H. PARKER): I have no doubt that hon. members have perused the report of the

Auditor General. In that report there is an appendix lettered B, which shows the causes of the excesses in the Treasurer's Statement for 1893, and the Bill I now propose to ask hon. members to read a second time is to legalise that expenditure. Although the Government have expended £28,485, which was not voted by Parliament, there has been a saving of over £70,000 of the moneys voted by Parliament. There are, as hon. members are aware, occasions when it is necessary to incur expenditure without the authority of the Legislature. For instance, at the time we had the smallpox scare, the Government were compelled to spend a considerable amount of money, and that item appears in this Bill. In the Medical Department £1,272 was spent in vaccination fees beyond the amount voted by Parliament. In consequence of the outbreak of smallpox every one rushed to be vaccinated, and the Government did their utmost to give effect to the desires of the people. The Police Department spent £365, principally in clothing and remounts, in addition to the estimate passed by Parliament. In the Defence Department there was an excess of £2,180, but of this sum £2,000 was expended on the fortifications at Albany, it being portion of this colony's contribution towards the construction of the forts there. This was a liability we incurred some years ago by agreement with the neighbouring colonies, under which we undertook to pay £5,000, they paying the balance. Then it will be observed that there has been an excess in the Postal Department of £591, caused principally by the extra expenditure incurred on the conveyance of inland mails. As our goldfields are opened up it becomes necessary for the Government to make arrangements for the carriage of mails to new places where there is a population of any size. The Government Storekeeper spent an excess of £650, which the Auditor General says was necessary, as the vote of Parliament was insufficient to meet the demands of the departments for stationery. Under the head of "Miscellaneous" there appears an excess of £10,146. The first item, £100, was caused by the amount for the Queen's Plate at Roebourne being required before the end of the financial year. The £2,190 1s. 7d. under the head

of "Miscellaneous" was caused by the purchase from Mr. H. Brockman of 280 acres of land at Greenmount to provide a permanent park, and it also may be utilised for other purposes; £3,780 was necessary to pay the award of the arbitrators in the case of A. B. Wright against the Government in connection with the construction of the Wyndham telegraph line. Then there was the £2,884 as the consequence of the smallpox outbreak. I do not know, however, that there is any need for me to explain further now, for hon. members have the items before them, and they will be able to see that the Government have spent the money in the best interests of the public service. I move the second reading of the Bill.

THE HON. D. K. CONGDON: I see an item of one penny as an excess in the Bill. Might I ask why that was caused?

THE COLONIAL SECRETARY (Hon. S. H. Parker): Will you ask that in committee?

Question—put and passed.

IN COMMITTEE.

Clause 1—"Excesses on Votes:—"

THE COLONIAL SECRETARY (Hon. S. H. Parker): The Hon. Mr. Congdon asked as to the item of one penny. The Auditor General explains it in this manner: That fractional parts of the penny are paid as a penny.

THE HON. S. J. HAYNES: Under the head of "Medical" there is the item £1,276, and under "Miscellaneous" is another item, £2,884. Why are these items divided? It now seems that the expenses of the smallpox outbreak were something like £4,000.

THE COLONIAL SECRETARY (Hon. S. H. Parker): It is only the way of keeping the accounts. These matters are arranged between the Treasury and the Audit Department.

Clause passed.

The Schedule was agreed to, and the Bill reported.

STIRLING STREET (FREMANTLE)
CLOSING BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): The street for which Parliamentary authority is sought to enable it to be closed is a street called

Stirling street. It has, in fact, been closed for a number of years already, and it runs through what is known as the Fremantle park, which is a delightful piece of ground, and which would be spoilt if the public had the right of a road through it. I move the second reading of the Bill.

THE HON. D. K. CONGDON: Although I do not object to the Bill, I must say I do not like the course pursued in regard to it, because the Municipal Council has never been asked whether they think it desirable that the street should be closed.

Question—put and passed.

IN COMMITTEE.

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

PATENTS, DESIGNS, AND TRADE MARKS
ACT'S AMENDMENT BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): This Bill is one of a somewhat technical nature. It will be observed that it recites section 103 of the Act of the Imperial Parliament of 1883 as amended by another Act of 1885, which is that if Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such State shall be entitled to a patent for his invention, or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the application in such foreign State. Provided that his application is made, in the case of a patent, within seven months, and in the case of a design or trade mark within four months from his applying for protection in the foreign State with which the arrangement is in force. There is a further recital of section 104 of the Imperial Act which enacts:—"Where it is made to appear to Her Majesty that the Legislature of any British possession has made satisfactory provision for the protection of inventions,

designs, and trade marks patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions (if any) as to Her Majesty in Council may seem fit, to such British possession." Then this Bill goes on to make provision to protect the patents, designs, or trade marks registered in any foreign State to which the Imperial Act applies. This is done with a view to asking Her Majesty in Council to apply the Imperial Act to this colony, which, if done, will virtually institute a system of reciprocity by which inventions abroad will be protected here, and by which inventions here will be protected wherever mutuality exists with Great Britain. There are also several amendments in the Patent law, but I do not think I need refer to them now. In committee, if any explanation is wanted, I shall be able to give it. The principal object of the Bill, however, is to constitute mutuality between this colony and Great Britain and those other countries in which mutuality exists between them and Great Britain. I move the second reading of the Bill.

Question—put and passed.

IN COMMITTEE.

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

SCAB ACT—WORKING OF.

THE HON. R. G. BURGESS moved: That in compliance with the request of the Legislative Assembly, a committee of five members be appointed, with power to confer with the similar committee chosen by the Legislative Assembly, for the purpose of inquiring into the working of "The Scab Act," with authority to call for persons and papers, to meet on days on which the Council does not sit, and to report on Wednesday, September 19th; and further, that the first meeting of the committee be held in the committee room of the Legislative Council, on Wednesday, 12th September, at 11-30 a.m. He said: This motion is made on account of hon. members and the public not being satisfied with the way the Scab Act is working; in other words the stock owners of the Southern districts are not

satisfied with the dipping arrangements at the Irwin. Only some few years ago a lot of sheep, which were supposed to have been dipped, were brought into the saleyards and sold. Some of them went to York, and were afterwards found to be rotten with scab. Another lot went to Albany, and were found to be in a similar condition, so much so that the butcher was advised to keep them locked up until they were killed. It is, therefore, nearly time that some measures were taken to assist the inspector to eradicate the disease altogether. It is now fifteen or sixteen years since there was any scab in the Southern districts, and in consequence of recent events it is desired that this joint committee should be appointed to see if some measures cannot be taken to prevent scab being brought from the North. I suggest that the Hons. Messrs. Wittenoorn, Dempster, Robinson, and Piesse be appointed to this committee.

THE PRESIDENT (Hon. Sir G. Shenton): You must not mention names. The committee has to be appointed by ballot.

THE HON. C. E. DEMPSTER: I have much pleasure in seconding this motion, for I fully recognise the importance of having this scourge, which is as bad as smallpox among human beings, stamped out. We know that the hotbed of the disease is at the North, and unless effective means are taken to prevent its being brought to the South we shall not be able to keep our districts clean.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I may say that I have a great number of reports from the chief inspector, which I shall be happy to produce to the committee. As far as I can see, he has been doing his utmost to stamp out the disease; but there are a number of difficulties in the way. Some of the settlers themselves actually try to conceal the disease where they know it exists; and then the paddocks are very large, and the sheep get into the thickets, where it is almost a matter of impossibility to get at them; and thus scab remains, and is disseminated among other clean sheep. I hope that the labours of this committee will enable some scheme to be propounded which will have the effect of stamping out the scab. It has been a great slur to this colony for many years that scab has been in existence, and I hope it will be found possible to do

something by which we shall no longer remain under this disgrace.

THE HON. F. M. STONE: Hon. members have referred to the scab at the North. I should like to say that there is no scab at the North; it is rather in the Central districts.

THE HON. E. H. WITTENOOM: I am glad to think that both Houses are alive to the importance of this subject. I live in the district where this disease is prevalent, and I have used considerable efforts to get the settlers to meet and devise, if possible, some means of aiding the Government to stamp it out. We were not able, however, to suggest anything better than the means which are now being employed. It is a very difficult and troublesome matter to deal with. The hon. member representing York has likened it to small-pox, but it is really worse, because you can catch the small-pox patient, whereas you cannot get hold of the straggling sheep. I shall be pleased to do all I can, if elected to this committee; and I hope the joint wisdom of the two Houses will lead to better results than did the deliberations of the squatters at Geraldton.

Question—put and passed.

A Ballot having been taken, the following Members were elected, in addition to the Mover, to serve on such Committee:—The Honourables C. E. Dempster, C. A. Piesse, E. Robinson, and E. H. Wittenoom.

EMPLOYERS' LIABILITY BILL.

IN COMMITTEE.

Clause 1—passed.

Clause 2—"Interpretation:"

THE HON. F. M. STONE: A workman under the Bill means a railway servant, and any other person (other than a menial or domestic servant) who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, has entered into or worked under a contract with an employer. I propose after the words "domestic servant" to add the words "or Asiatic or African alien." The addition of these words will exclude any Asiatic or African from the benefits and privileges of the Act. In the North the people have been obliged to employ persons belonging to

these alien races; but I do not see why they should have the benefits of the Act. They are employed in pearl diving and in drawing water. We have heard a great deal about the employment of Chinamen, and I do not think they should have the privileges of the Act when they are only engaged where white men cannot be employed.

THE COLONIAL SECRETARY (Hon. S. H. Parker): Although I believe the policy of this colony is not to attract to her shores Asiatic and African aliens, I do not think it well, when they are here, to exclude them from the benefits of the Act. To pass the amendment will be tantamount to saying that it does not matter how careless the superintendent or manager is, or how defective the works are, it does not matter, if the workman is a Chinaman, how much he is injured. In other words it is equivalent to saying that an injury to a Chinaman is of very little moment. I do not think it speaks well for our humanity to let anything of the kind go out, nor do I think that, unless in exceptional cases, we should indulge in class legislation. I will suggest that instead of excluding Asiatics, we should exclude pearl-livers. I believe it has been held in England that sailors do not come within the Act, and on the same principle we may fairly legislate in respect to pearl-livers.

THE HON. C. E. DEMPSTER: I am not in favour of the amendment, because I do not see why there should be one law for the Chinaman and another for the white man.

THE HON. J. W. HACKETT: I hope the House will not accept the amendment, for many reasons—not only those which the Hon. the Colonial Secretary has given, although they are, perhaps, among the strongest. I cannot understand why the life and limbs of one man, although he may be of a different colour, are not as precious as those of another, or why he should not have similar privileges to the white man. Thus, why pearl-livers should be exempt I cannot understand, either on grounds of logic, reason, or humanity. Then, again, the amendment will not have the object my hon. friend desires. His object is, no doubt, to discourage the employment of these alien races, but the result of the amendment will be that employers will take them more largely

into their service, as a means of enabling them to contract themselves out of the Act. I will vote for the clause as it stands.

THE HON. R. G. BURGESS: I will oppose the amendment, and I will also be against the exception of pearl-ers, because the occupation is a dangerous one, it being possible for a man to go down into the water, and lose his life in two or three minutes through the carelessness of someone above.

THE HON. F. M. STONE: I will point out that there is very little in the cry of inhumanity which has been raised, for the present law has been in existence for many years, and it has not been called inhuman, and I only now wish it to remain as it is in the case of aliens. Under the present law if an alien is injured through the negligence of the master he has his right of action, but under this Act the question of common employment comes in. We all know the character of the Chinese. They are very cunning, and two Chinese could easily arrange to bring an action against the master. I have had some experience of them, and have known them to cut their faces in order to go into court. It was because I knew of these things that I proposed the amendment. As for class legislation, it already exists in regard to the Goldfields Act, and that is not considered to be inhuman legislation. With regard to the pearl-ers, there is, no doubt, a great risk, but they are paid high wages in consequence. Take the case of two Malays. One might be below and the other at the pump, and just because the latter turned the wrong handle, or acted negligently in some way and caused injury, the employer would be liable, and this I wish to prevent.

THE HON. J. C. G. FOULKES: It has always been the proud boast of Englishmen throughout the British dominions that the same law is dealt out to the black as to the white, and the Hon. Mr. Stone, by his ridiculous amendment, is endeavouring to disgrace this colony.

THE HON. E. G. HENTY: I will support the amendment. I have had considerable experience in the employment of Chinese, I having had at one time between 60 and 70. They are a race of people more prone to malingering than white men. As to the amendment being

ridiculous, I cannot see that it is so, nor do I see where the truth of the statement comes in, that the same law applies all over the British dominions to the coloured races, as to the white races. It does not in the South Seas, neither does it here. I will support the amendment.

THE HON. S. J. HAYNES: I was inclined to support the amendment at first, but after hearing the reasons against it, especially the one given by the Hon. Mr. Hackett, I shall not vote for it. I do not like Chinamen, but while they are here they should have the benefits of the Bill, especially if by having such it will lead to the employment of fewer Chinamen.

THE HON. E. H. WITTENOOM: I, like the hon. member who has just sat down, had intended to support the amendment at first, but unlike him I intend to support it still. The arguments about inhumanity are not applicable, because if the Chinaman is injured through the fault of the master he has his remedy under the existing law. I know that is so, for I have recently had the pleasure of having to pay £4 because a Chinaman got kicked by a horse. The great injustice of the Bill is that the master is liable for the acts of those he sets over the men, and with the coloured races it could easily be arranged between them to bring an action against the master. The Hon. Mr. Hackett has said that the amendment will lead to the employment of more Chinamen, but I do not think anyone will employ them if they can help it.

The committee divided.

Noes	10
Ayes	7

Majority against ... 3

<p>AYES. The Hon. F. T. Crowder The Hon. Ernest Henty The Hon. J. E. Richardson The Hon. E. Robinson The Hon. H. J. Saunders The Hon. E. H. Wittenoom The Hon. F. M. Stone (Teller).</p>	<p>NOES. The Hon. R. G. Burgess The Hon. E. W. Davies The Hon. C. E. Dempster The Hon. J. W. Hackett The Hon. R. W. Hardey The Hon. S. J. Haynes The Hon. H. McKernan The Hon. S. H. Parker The Hon. C. A. Piesse The Hon. J. C. G. Foulkes (Teller).</p>
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Clause passed.

Clauses 3 to 5 passed.

Clause 6—"Limitation of sums recoverable as compensation:"

THE HON. J. C. G. FOULKES: The amount of compensation is limited to three years' wages, but I do not see why there should be any limit. A man may

not have earned anything for two years, and then the amount he would be entitled to would be the average of the three preceding years. This is most unfair. And, again, a man might have come from the other colonies and might have sustained an injury soon after he had arrived. How, then, was the amount he was entitled to recover to be calculated? I do not see why the limit could not be made six years, and leave the amount to a jury to fix. There is no such limit as this with regard to civil servants. When certain of them retired when Responsible Government was obtained, some of them were given as much as £600 a year for life, in consequence of their loss of office, but the working man is to be limited to three years' salary.

THE COLONIAL SECRETARY (Hon. S. H. Parker): The Hon. Mr. Foulkes has argued on a clause which does not exist, for if he reads the Bill he will see that the amount is not to exceed the equivalent of the estimated earnings during the three years preceding the injury—but of the man himself—but of a person employed in the same grade. Therefore, if a man sustains an injury within a month of his employment, he could recover. As to the limit, I might say that the same thing is the law in England, and I do not know that it can be said that we are treating persons liberally by adopting what has been found to work well in the Old Country. Besides this, outside this Act a man has his right of action against the employer in certain cases, and it is only where he has not that right he can avail himself of this Act. The matter of pensions referred to cannot be used as an argument in this case, because they are fixed by the Colonial Office, and the colony is compelled to pay them as a condition to getting the change of Constitution, and, rightly or wrongly, we think better to pay than continue under the old order of things. I think it would be unwise to allow a jury to fix the compensation without limitation, because there is no doubt that the employer will always get the worst of it.

Clause passed.

Clause 10—"Limit of time for recovery of compensation:"

THE HON. S. J. HAYNES: I move to strike out "six" and insert "eight." The clause provides that the injured

workman must give the employer notice within six weeks, and then there is a proviso that the want of such notice shall be no bar to the maintenance of the action, if the Judge is of opinion that there is reasonable excuse for the delay. I wish to fix the time at eight weeks, and strike out the proviso. This will prevent an unprincipled man not giving the notice, and then putting a plausible case before a Judge. I think a man who does not give the notice provided by the Bill is not deserving of the protection and benefits of the Act.

THE COLONIAL SECRETARY (Hon. S. H. Parker): By specially providing eight weeks and striking out the proviso, it is making the Bill more favourable to the employer. It might be that the workman would not be in a condition to give the notice in the time by reason of his injuries. I think we might trust the judges to say whether there is reasonable cause for the notice not having been done in time, especially as the excuse must be a reasonable one, and that the employer has not been prejudiced.

THE HON. J. C. G. FOULKES: I have lived in a manufacturing district, and I can assure hon. members that although this law is in force hundreds of men do not know it is necessary to give any notice. It has to be a written notice, and a great number even if they knew about having to give it would think it sufficient if they told the employer. If this were struck out, the Act would be a dead letter.

THE HON. E. H. WITTENOOM: If the English workmen were like the Australian workmen, they would not let six weeks go by without either by themselves or through their friends giving the notice in proper time. Is it fair to the employer to have a thing of this kind hanging over his head?

THE COLONIAL SECRETARY (Hon. S. H. Parker): The action must be brought within six months.

THE HON. E. H. WITTENOOM: The clause reads that the want of such notice shall be no bar to the maintenance of such action, if the judge who tried the action should be of opinion that there was reasonable excuse for such want of notice.

THE COLONIAL SECRETARY (Hon. S. H. Parker): But that does not extend the time for bringing the action.

THE HON. E. H. WITTENOOM: I think that it does, as I read it. However, I think there should be a definite time fixed, especially as every man has his friends and his solicitor to look after him and see that the notice is given. I will support the amendment.

THE HON. C. A. PIESSE: A man may be employed a hundred miles away, and if an accident happens to him the employer may prevent such man coming in to give notice if the time is limited.

THE HON. F. M. STONE: I agree with the Hon. the Colonial Secretary, for if the time were limited it would practically mean that workmen would be prevented in many instances from bringing actions. The employers might clear out.

THE HON. E. H. WITTENOOM: How many employers could do that?

THE HON. F. M. STONE: I think it is reasonable to leave the matter to a Judge. A man might be in the hospital for eight or ten weeks and be unable to give the notice, and then when he came out he would find his right of action gone under the amendment.

THE HON. S. J. HAYNES: The employer who cleared out would be hardly worth powder and shot in a law case. I would be the last to propose anything unreasonable against the working man, for I am in sympathy with him; but I also think the employer is entitled to some protection.

THE COLONIAL SECRETARY (Hon. S. H. Parker): It is unusual to require any notice to be given. As a rule, a man can bring an action without any notice, and it is only in cases against magistrates and the sheriff that such notice is required. The fact of his having to give notice is imposing a condition on the workman, but if the time is absolutely fixed at eight weeks, it will in some cases be an absolute bar to the action. A Judge cannot extend the time for bringing the action. All he can do is to extend the time for the giving of the notice, if there is a reasonable excuse and the employer is not prejudiced thereby.

The committee divided.

Ayes	11
Noes	6
Majority for ...	5

AYES.		NOES.	
The Hon. F. T. Crowder		The Hon. R. G. Burges	
The Hon. E. W. Davies		The Hon. C. E. Dempster	
The Hon. J. C. G. Foulkes		The Hon. R. W. Hardy	
The Hon. J. W. Hockett		The Hon. E. Robinson	
The Hon. Ernest Henty		The Hon. E. H. Wittenoom	
The Hon. H. McKernan		The Hon. S. J. Haynes	
The Hon. C. A. Piesse			(Teller).
The Hon. J. E. Richardson			
The Hon. H. J. Saunders			
The Hon. F. M. Stone			
The Hon. S. H. Parker			

Amendment negatived.

Clause passed.

The remaining clauses were agreed to, and the Bill reported.

ADJOURNMENT.

The House, at 6:30 o'clock p.m., adjourned until Wednesday, 12th September, at 4:30 o'clock p.m.

Legislative Assembly,

Thursday, 6th September, 1894.

Petition of Mr. W. Wilkinson, York—Pioneer Surface Railways: appointment of Select Committee—Introduction of a new or amending Mining Act: adjourned debate—Municipal Institutions Bill: further considered in committee—Constitution Act Further Amendment Bill: second reading; in committee; third reading—Adjournment.

THE SPEAKER took the chair at 4:30 p.m.

PRAYERS.

PETITION OF MR. W. WILKINSON.

MR. MONGER presented a petition from Mr. W. Wilkinson, of York, relating to a road crossing his location in the Green Hills district.

The petition was received, read, and ordered to be printed.

PIONEER SURFACE RAILWAYS.

MR. HARPER, in accordance with notice, moved, "That in the opinion of this House it is desirable that full particulars should be obtained relating to