

prorogation will be fixed for half-past twelve on Friday. We might meet at eleven o'clock, if there is anything to do; and, if not, at a quarter-past twelve, or something like that.

MR. A. FORREST: Say half-past three.

MR. ILLINGWORTH: Half-past two.

THE PREMIER: Say three o'clock. If it will be agreeable to members, and nothing in the meantime occurs to alter it, I will make arrangements with his Excellency's Deputy to prorogue at that hour.

ADJOURNMENT.

The House adjourned at 11.20 p.m. until the next day.

Legislative Council,

Thursday, 27th October, 1898.

Paper presented—Question: Commissioner of Land Titles—Municipal Institutions Act Amendment Bill (borrowing, etc.), the Council's Amendment further considered—Cemeteries Act Amendment Bill, all stages; Divisions (4)—Question: Supreme Court, Additional Room—Prorogation Arrangements—Adjournment.

The PRESIDENT took the chair at 4.30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Auditor General's Report on purchase of materials by Public Works Department.

Ordered to lie on the table.

QUESTION: COMMISSIONER OF LAND TITLES.

HON. R. S. HAYNES, without notice, asked the Colonial Secretary whether his attention had been drawn to the fact that

the position of Commissioner of Land Titles, previously held by Mr. Justice James, was now filled by Dr. Smith.

THE COLONIAL SECRETARY said he found he was in error yesterday. The matter to which reference had been made occurred before he joined the Ministry, and this change was not within his knowledge. Certain other facts were known to him, which led him to suppose the answer which he gave yesterday was correct. It was absolutely necessary, he understood, that Mr. Justice James should resign his position as Commissioner of Titles, as it was improper for him to hold the office of a puisne judge, and at the same time an office of profit under the Crown. The hon. member would notice that the appointment of Dr. Smith was only a temporary one.

HON. R. S. HAYNES: During pleasure; the same as all other officers.

THE COLONIAL SECRETARY: It was to Mr. Justice James's interest to take up his old position again, for reasons which need not be mentioned; therefore Dr. Smith would be provided with some other appointment.

HON. R. S. HAYNES: It was not a permanent appointment, then?

THE COLONIAL SECRETARY: No.

MUNICIPAL INSTITUTIONS ACT AMENDMENT BILL.

LEGISLATIVE COUNCIL'S AMENDMENT.

The Council having made an amendment in a new clause inserted by the Legislative Assembly, which amendment had been disagreed to by the Assembly, the same was now considered.

IN COMMITTEE.

THE COLONIAL SECRETARY moved that the amendment made by the Legislative Council be not insisted on.

HON. R. S. HAYNES said he intended to move that the new clause be further amended by inserting after "any," in line four, the word "surveyed," and after "street" in the same line the words "in which allotments have been laid out and sold." When the clause as originally drawn was introduced, he pointed out that if there was a user over the ground for twelve months, the municipality could dedicate it as a street simply by advertising in the newspapers. Under the cir-

cumstances, a man might go away for twelve months and return, only to find that a road had been made through his land ; and he could not get it back again, because the dedication was complete directly the advertisement appeared. At the time, he had suggested that the words "with the consent of the owner" should be inserted, but it was found that this would leave matters in the same position as at present. He then spoke to the Premier on the matter, and the Premier suggested the amendments as now moved.

HON. D. MCKAY : Did the hon. member ever know of a right-of-way by user ?

HON. R. S. HAYNES : Yes ; there was a case on the western side of the River Swan, of a right-of-way on the road from Perth to Guildford. If a person surveyed and laid out a block of land, he would, if these amendments were passed, be careful to fence it in.

Question—that the amendment of the Council be not insisted on—put and passed.

HON. R. S. HAYNES moved to the effect that the new clause be amended in the manner he had already explained.

Question put and passed, and the new clause amended accordingly.

Resolution reported, report adopted, and a message accordingly transmitted to the Legislative Assembly.

CEMETERIES ACT AMENDMENT BILL.

ALL STAGES.

Received from the Legislative Assembly, and read a first time.

THE COLONIAL SECRETARY, in moving the second reading, said : This Bill empowers the trustees of any public cemetery to borrow money on mortgage on any property vested in them as trustees, and upon the fees received by them as trustees. That will enable the trustees to lay out the grounds and provide a mortuary chapel and to provide the necessary machinery for burials. The latter portion of the first clause states that any security given by the trustees shall not involve any trustee in personal liability.

HON. R. S. HAYNES : In seconding the motion, I am afraid the Bill is rather crudely drawn. The Bill states, "the trustees of any public cemetery may borrow

money on mortgage." It ought to read "may borrow money on security of any property." People do not borrow money on mortgage. No power is given in the Bill for the trustees to execute deeds ; and, if I were acting for a financial corporation, I should advise that the trustees could not borrow money. The Bill should read that the trustees of any public cemetery may borrow money on the security of any property, and for that purpose they may execute assurances, and so on. In the past, there has been too much of this loose legislation, and by-and-by we shall find a lot of conveyancers coming from England who will raise points, and in every case Parliament will have to pass a Bill to overcome the difficulty. I suppose it is the old story, that the Bill has come in at the end of the session and must be rushed through. If it will do any good, I will second the motion.

HON. J. W. HACKETT : The trustees are going to borrow from the Government.

HON. F. T. CROWDER : I should like a little information in reference to this Bill, although it is a small one. I would like the Colonial Secretary to inform the House whether it is the intention of the trustees of the cemetery to mortgage the lands of the cemetery. If that is so, any person who takes up a piece of ground in a cemetery for the purpose of burials, and pays for the land, is to have his land mortgaged by the trustees. If that is the case, I trust no hon. member—

HON. R. S. HAYNES : Will die.

HON. F. T. CROWDER : I hope the trustees of a cemetery will not be empowered to mortgage the lands of a cemetery. I have great objection to this Bill.

HON. H. BRIGGS : I rise to support the Bill. We have in Fremantle a projected cemetery, and to put it in good order and condition, so as to be serviceable for the purpose required, the trustees will have to borrow money ; therefore, without this Bill the cemetery cannot be used. The board have a grant of land, and the money has to be found to fence in this land, and to lay it out so as to make it serviceable for interments. Although I am speaking in the interests of Fremantle, I may point out that in places where settlement has taken place in latter days, the same difficulty will occur. I wish to support the Bill.

HON. F. T. CROWDER: What title can you give to a person who buys a piece of land in your cemetery?

THE COLONIAL SECRETARY: The best of all titles, if a body is deposited there.

HON. R. G. BURGESS: Fremantle can surely raise enough money to improve its cemetery.

HON. R. S. HAYNES: Suppose you borrowed from the Perth Discount Bank?

HON. H. BRIGGS: That is an institution I am not acquainted with. I have much pleasure in supporting the Bill.

HON. A. B. KIDSON: I hope Mr. Crowder will see fit to change his mind, and vote for the Bill. After he hears what I have to say in connection with it, he should do so, whether he does or not. I would point out to him that at Fremantle—I am not certain of the number of acres vested in the Cemetery Board there, but it is a large number, about 400—the board intend only using at the present time 30 acres, which are to be fenced in for cemetery purposes. These 30 acres will serve the requirements for a number of years. Unless this Bill is passed, and more power is given to the Cemetery Board to raise funds for getting the 30 acres ready to receive bodies for burial, a serious inconvenience will exist, as the present cemetery is full to overflowing, and things have got to such a pass that on the burial of a body it is positively indecent. Without this money it is impossible for the new ground to be used, because money is required by the board for clearing the land. It is absolutely necessary this should be done. Members will see that the board will not be mortgaging the ground that is used for burials, but the board will mortgage that portion of the ground which is not used.

HON. F. T. CROWDER: Is that set out in the Bill?

HON. A. B. KIDSON: It is not set out in the Bill, but is it likely that any board would mortgage land that was used for the purpose of burials? We must trust members of boards to use some discretion, and not to do anything that is indecent. Those persons who desire to obtain a piece of land for burial purposes can obtain a title, because the mortgage would not apply to that portion of the cemetery used for burial purposes.

HON. H. G. PARSONS: I notice the hon. member who has last spoken, although not willing to pledge himself, is anxious to pledge the cemetery. I cannot see that this Bill means anything more or less than an admission by the House of the principle of endowing a cemetery. I am in favour, generally speaking, of endowments to universities, schools of mines, and other bodies of public interest, at the present stage of the history of the colony; but a cemetery is the least justifiable of all things to receive an endowment. By giving the trustees the power to pawn a cemetery, and the bodies contained therein, you are giving them power which it is not meant they should exercise, and which might be exercised in certain cases in an indecent and wrong manner. I do not contemplate it is likely that the powers would be exercised in such a way, but I should like to receive some assurance from the Colonial Secretary that if we go so far as to recognise this principle of endowment in this extreme case, the Government should go a little further and endow universities, schools of mines, and so on. People have been asking the Government to give the fee simple of certain lands to friendly societies and institutes, and to give power to mortgage the properties to carry on these institutions, and place them on a solvent basis. But the Government say that they will not alienate the lands of the colony. I think it is rather an extreme case to ask the Legislature to endow cemeteries. If the Government adopted the principle all round of endowing institutions with land out of which they could obtain rents, I would be prepared to vote for this Bill, which is an extreme extension of such a system. Unless the Government are going to swallow their declared policy in regard to this question, I shall feel compelled to vote against this rather paradoxical, extreme, and revolutionary application of it.

HON. A. P. MATHESON: I cannot support the Bill as it stands, because whatever may be said, there is nothing to prevent that part of the burial ground being mortgaged which contains corpses, and that is a suggestion which would revolt the feelings of anybody who has relations or friends buried in the cemetery. Otherwise, I do not think the principle in the

Bill is very objectionable. It is absolutely certain that if you have a public cemetery, the trustees of that cemetery must be placed in funds for the purpose of fencing and carrying out necessary improvements. It is a perfectly reasonable thing that they should be allowed to pledge that portion of the cemetery not used in burial, and in case default were made at any time, the parties who lent the money could step in and use the ground for private purposes.

THE COLONIAL SECRETARY: No; only for burial purposes.

HON. A. P. MATHESON: In that case it would, I think, be found very difficult to borrow money. To meet the objection, I will, in Committee, move that after the word "trustees" in the second line the words "and which is for the time being unused for the purpose of burial" be inserted. The trustees can then mortgage that part of the cemetery they do not intend to immediately use for burial, and thus my objection, which is a sentimental one, would cease.

THE COLONIAL SECRETARY (Hon. G. Randell): The power to mortgage has reference, I should say, to the fees and emoluments which would accrue to the trustees from the carrying out of their duties. The danger suggested about the mortgagees stepping in and utilising the ground for other purposes is so utterly remote that it need not enter our calculations.

HON. F. T. CROWDER: In this enlightened age, you do not know what will happen.

THE COLONIAL SECRETARY: Apart from the public sentiment, I do not think a mortgagee would be able to utilise the ground for private purposes, but must continue to devote it to the purpose for which it was dedicated. All that the mortgagee would be able to do would be to step into the shoes of the trustees and carry out the duties which the trustees were originally appointed to perform. No money is available by Parliamentary vote for this cemetery.

HON. J. W. HACKETT: The cemetery at Fremantle?

THE COLONIAL SECRETARY: Yes.

HON. J. W. HACKETT: There is £1,000 on the Estimates, which were passed last night.

HON. H. BRIGGS: That has already been spent.

THE COLONIAL SECRETARY: At any rate, that amount is not sufficient, as we know from experience with the Karrakatta cemetery, for clearing the ground and preparing it for the decent interment of the dead. I fail to see that any such catastrophe as is feared can possibly happen. If persons are willing to advance money the trustees may surely be left to deal with the matter; and the trustees of the Fremantle cemetery say that without the power contemplated in this clause, it is impossible for them to carry out their duties.

Question put, and a division taken with the following result:—

Ayes ...	...	...	...	7
Noes ...	...	...	...	4
				—
Majority for	...	...	...	3

Ayes.	Noes
Hon. H. Briggs	Hon. R. G. Burges
Hon. J. W. Hackett	Hon. F. T. Crowder
Hon. A. B. Kidson	Hon. E. McLarty
Hon. A. P. Matheson	Hon. H. G. Parsons
Hon. D. M. McKay	(Teller)
Hon. G. Randell	
Hon. J. E. Richardson	
(Teller)	

Question thus passed.

Bill read a second time.

IN COMMITTEE.

HON. F. T. CROWDER moved—"That the Chairman do now leave the chair." He submitted this motion because he felt strongly in regard to the Bill. Hon. members were now asked to give trustees power to mortgage God's acre, and there was nothing in the Bill to indicate what part of the cemetery the trustees could mortgage. When a person bought land in a cemetery and buried his dead there, he paid for that land, and regarded it as his. For 99 years, at any rate, it was looked upon as a sacred spot. This Bill proposed to give a power that was in existence in no part of the British Empire; namely, a power to mortgage a cemetery. Could it be conceived that the House would pass a law that was certain to be held up to ridicule? The Fremantle cemetery trustees at present owned a block of ground of some 200 or 300 acres, and they wanted to mortgage a certain part of that to enable them to

lay out the rest. As a matter of fact, the trustees ought to raise this money amongst themselves. If the cemetery was overflowing, Karrakatta cemetery, on which the Government had spent a heap of money, could be resorted to. To allow trustees to mortgage the land in which our dead were buried was disgraceful.

Motion put and negatived.

Clause 1—Power to borrow money:

HON. R. S. HAYNES moved, as an amendment, that the word "mortgage" be struck out and "security" inserted in lieu thereof.

Put and passed.

HON. A. P. MATHESON moved, as an amendment, that after the words "trustees," in line 2, the words "and which is for the time being unused for the purposes of burial" be inserted. The object was to avoid any possible risk of mortgages stepping in, if default occurred, and selling the graves. Whatever the views of the Colonial Secretary might be, if this Bill were passed giving to trustees power to mortgage their property, persons who advanced money would undoubtedly have power to seize the property in case of default, and utilise it for their own purposes. If the trustees were given the right to pawn the property, the people who lent the money could not be refused their right, under common law, to foreclose on the security. In fact, the dedication of the cemetery completely ceased if this Bill were passed.

Amendment put and passed.

HON. R. S. HAYNES moved, as a further amendment, that after "1897," in line 4, the words "and for that purpose may execute such liens, mortgages, or assurances for the premises as may be necessary" be inserted.

Put and passed.

HON. R. S. HAYNES moved, as a further amendment, that the following words be added at the end of the clause: "and provided also the consent of the Governor be first had and obtained."

Put and passed.

HON. W. T. LOTON: The principle involved in the clause was to allow money to be raised upon mortgage on cemeteries and on the human remains of people. That seemed to be "playing down" a bit low. He was astonished that in this

period of the nineteenth century we could not find sufficient private ground, free of encumbrance, for the interment of the dead. He understood that an amendment had been made in the clause, whereby the particular spot of land where human remains were interred was exempt from mortgage.

HON. R. S. HAYNES: That was so.

HON. W. T. LOTON: Then we could take a cemetery and dot it about with little bits of land 6ft. 6in. by about 2ft., where human remains were interred, and these spots were reserved from mortgage, while the remaining portion of the land could be dealt with. It was a disgrace to any Parliament. He could do no more than vote against the clause, but vote against it he would.

Question—that the clause as amended stand part of the Bill—put, and a division taken with the following result:—

Ayes	9
Noes	5

Majority for	4
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<i>Ayes.</i>		<i>Noes</i>
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Hon. H. Briggs	Hon. R. G. Burges
Hon. D. K. Congdon	Hon. W. T. Loton
Hon. J. W. Hackett	Hon. H. G. Parsons
Hon. R. S. Haynes	Hon. F. T. Crowder
Hon. A. B. Kidson	Hon. E. McLarty
Hon. D. M. McKay	(Teller)
Hon. A. P. Matheson	
Hon. G. Randell	
Hon. J. E. Richardson	
(Teller)	

Clause as amended thus passed.

Clause 2—agreed to.

Preamble and title—agreed to.

Bill reported with amendments, and the report adopted.

THIRD READING.

THE COLONIAL SECRETARY moved that the Bill be read a third time.

Question put, and a division taken with the following result:—

Ayes	7
Noes	5

Majority for	2
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<i>Ayes.</i>		<i>Noes</i>
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Hon. D. K. Congdon	Hon. R. G. Burges
Hon. A. B. Kidson	Hon. W. T. Loton
Hon. D. M. McKay	Hon. H. G. Parsons
Hon. A. P. Matheson	Hon. E. McLarty
Hon. G. Randell	Hon. F. T. Crowder
Hon. J. E. Richardson	(Teller)
Hon. H. Briggs	
(Teller)	

Question thus passed, and the Bill read a third time.

THE COLONIAL SECRETARY moved that the Bill do now pass, and be entitled an Act.

Question put, and a division taken, with the following result:—

Ayes	...	...	...	8
Noes	...	...	...	5
Majority for				3

Ayes.

Hon. D. K. Congdon
 Hon. A. B. Kidson
 Hon. D. M. McKay
 Hon. A. P. Matheson
 Hon. G. Randell
 Hon. J. E. Richardson
 Hon. H. J. Saunders
 Hon. H. Briggs
 (Teller)

Noes

Hon. F. T. Crowder
 Hon. R. S. Haynes
 Hon. W. T. Loton
 Hon. E. McLarty
 Hon. R. G. Burges
 (Teller)

Question thus passed.

At 5.50 p.m. the PRESIDENT left the chair.

At 7.55 the PRESIDENT resumed the chair.

QUESTION: SUPREME COURT, ADDITIONAL ROOM.

HON. R. S. HAYNES, without notice, asked the Colonial Secretary whether, in view of the congested state of business in the Supreme Court, it was the intention of the Government, at once or within a reasonable time, to take steps for the provision of a third court room. At present, owing to the congestion, cases were hung up month after month, and, while judges were willing to sit, they complained they had not a place to sit in.

THE COLONIAL SECRETARY said he could only promise to bring the matter under the notice of the Government. He was not in a position to make any statement.

PROROGATION ARRANGEMENTS.

THE COLONIAL SECRETARY stated that it was the intention to prorogue Parliament at three o'clock the next day, and he would be glad to have the attendance of hon. members at a quarter past two o'clock.

ADJOURNMENT.

THE COLONIAL SECRETARY moved that the House, at its rising, do adjourn until 2.15 p.m. to-morrow.

Put and passed.

The House adjourned at 8 p.m. until the next afternoon.

Legislative Assembly,

Thursday, 27th October, 1898.

Question: Towage Charge at Fremantle—Paper presented—Petition of J. Gibson: Motion to Rescind Resolution (postponed)—Question: Train to Guildford, overcrowded—Motion: Public Works, Accountant's branch, Inquiry; Division (negatived)—Motion: Railway Survey, Busselton to Quindalup (withdrawn)—Appropriation Bill: Practice as to Amendment, Statement by the Speaker—Cemeteries Act Amendment Bill, Legislative Council's Amendment—Municipal Institutions Act Amendment Bill, Legislative Council's further Amendment—Motion: Post and Telegraph Administration, Commission of Inquiry—Motion: Pinjarrah-Marradong Railway Construction, by Private Enterprise—Motion: Shipping Laws, Commission of Inquiry—Motion: Encouragement of Manufactures and New Industries—Motion: Municipal Rating on Land Value; Division (negatived)—Motion: Federal Delegates, Mode of Election (withdrawn)—Motion: Liquor Licenses, Limitation in Metropolitan District (withdrawn)—Railway Estimates, Mode of Preparation: Explanation—Motion: Ivanhoe Venture Lease, Compensation—Motion: Paris Exhibition, Representation of Colony—Prorogation Arrangements—Adjournment.

The SPEAKER took the chair at 4.30 o'clock, p.m.

PRAYERS.