

as counsel, upon any private Bill or other proceeding in Parliament.

I quote that merely to show to the House that it is impossible for me, at any rate (having been accused of assisting the hon. member), to appear as his counsel before the Select Committee; and what I do in this matter I do as a member of the House, and I am not going to be the first in this community to fail in supporting one who, I think, is in the right.

Question put, and passed without dissent.

ADJOURNMENT.

The House adjourned at 8:35 o'clock until the next Tuesday.

Legislative Council,

Tuesday, 12th June, 1900.

Quorum: Point of Order—Papers presented—Question: Mails, a Claim for Carriage—Question: Elections for the Council, Additional—Question: Trial of Prisoners, "Ethel" Murder Cases—Municipal Institutions Amendment Bill, all stages—Adjournment.

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

PRAYERS.

QUORUM—POINT OF ORDER.

HON. A. P. MATHESON: I should like to take your ruling, Mr. President, on a point of order as to the quorum. I see there are only nine members present, and under the new Constitution Act the Legislative Council consists of 30 members.

THE PRESIDENT: There is present a quorum of the present House, which consists of 24 members.

HON. A. P. MATHESON: I would like to call your attention to the new Constitution Act of 1899. Section 52 of that Act says:

This Act shall be proclaimed in Western Australia by the Governor so soon as he shall receive a notification by telegraph or otherwise of the royal assent thereto, and shall commence and take effect from the date of publication of such proclamation; but the constitution of the existing Legislative Assembly shall remain unaffected by this Act until the said Assembly is dissolved by the effluxion of time or otherwise.

Section 5 says distinctly:

The Legislative Council shall consist of 30 elected members, who shall be returned and shall sit for electoral provinces as hereinafter stated and defined.

Section 14 of the Constitution Act says:

The presence of at least one-third of the members of the Legislative Council, exclusive of the President, shall be necessary to constitute a quorum.

I shall be glad to know if you have given consideration to these sections.

THE PRESIDENT: In any case, there are ten members here present.

HON. A. P. MATHESON: There were not, when I spoke.

The matter then dropped.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Mail Steamers calling at Fremantle, further correspondence. 2, Swan River Jetties and Foreshore, Bathing Regulations. 3, Regulations under Stock Diseases Act. 4, Regulations under Land Act. 5, By-laws made by North Coolgardie, Drakesbrook, Coolgardie, Upper Capel, Tableland, Cottesloe, Wandering, and Kalgoorlie Roads Boards; by Southern Cross and Cookernup General Cemeteries; and by Wiluna and Bridgetown Commonage Boards.

Ordered to lie on the table.

QUESTION—MAILS, A CLAIM FOR CARRIAGE.

HON. R. S. HAYNES asked the Colonial Secretary: 1, If it is a fact that the Hon. the Attorney General advised Messrs. Smith and Timms in a proposed action against the Government on a claim for carriage of mails. 2, Was such action brought? 3, If so, with what result?

THE COLONIAL SECRETARY replied:—1, No. 2, No proposed action

in which Messrs. Smith and Timms were advised by the Hon. the Attorney General was brought. 3, Answered by Nos. 1 and 2.

QUESTION—ELECTIONS FOR THE COUNCIL, ADDITIONAL.

HON. A. P. MATHESON asked the Colonial Secretary, What steps are being taken to fill the six new seats in the Legislative Council created by the Constitution Act Amendment Act, 1899?

THE COLONIAL SECRETARY replied:—The matter is under the consideration of the Crown Law Department.

QUESTION—TRIAL OF PRISONERS, "ETHEL" MURDER CASES.

HON. M. L. MOSS asked the Colonial Secretary: 1, If it is a fact that the Hon. the Attorney General intends to personally conduct the prosecutions on behalf of the Crown in the murder trials arising out of the mutiny on the ship "Ethel." 2, If the Hon. the Attorney General or the Government has assigned or retained counsel to defend the prisoners without consulting the Judge. 3, If the Hon. the Attorney General or the Government has delivered briefs to any counsel to defend the prisoners in those trials. 4, If any, and if so what, fees have been paid to counsel for such purpose; and, if so, the names of such counsel. 5, If such briefs were delivered, or fees paid, under what authority has this been done. 6, If the Judge who intended to preside at the trials has assigned other counsel to defend the prisoners in lieu of those appointed by the Attorney General or the Government. 7, If so, the names of such substituted counsel.

THE COLONIAL SECRETARY replied:—1, Yes. 2, The Attorney General placed counsel at the service of the prisoners in view of counsel being assigned by the Judge to defend the prisoners on arraignment. 3, Yes. 4, To Mr. Ewing 35 guineas, and to Mr. Penny 25 guineas. 5, The Attorney General's. 6, It is assumed not, as it is not the practice for a judge to assign counsel to defend a prisoner before arraignment. 7, See answer to question 6. I understand Mr. Ewing has returned his fee.

HON. R. S. HAYNES: I can inform you the practice is otherwise.

MUNICIPAL INSTITUTIONS AMENDMENT BILL.

Introduced by HON. R. S. HAYNES, and read a first time.

SECOND READING.

HON. R. S. HAYNES (Central): This being a public Bill, and as the Standing Orders of the House have been suspended in regard to public Bills, I move that the Bill be now read a second time. The measure contains only four clauses.

THE COLONIAL SECRETARY: The hon. member does not intend to go on with Clause 4?

HON. R. S. HAYNES: Perhaps the Colonial Secretary will hear my explanation first. The first clause incorporates the Bill with the present Act. The second clause gives power to any municipality at any time to amend its list of ratepayers for the purpose of voting for municipal purposes. Under the present Act, if the rates are not paid within fourteen days of the 1st January or 30th June, the ratepayers are not entitled to have their names placed on the roll. A good deal of friction has taken place in consequence of several municipal councils having passed resolutions altering the date on which payments ought to be made. They wish to give an opportunity to ratepayers of getting on the rolls, and, according to the Bill, any council can pass a resolution by an absolute majority of the members, directing that the ratepayers who have paid their rates up to any date fixed shall be placed on the roll, and that will be the roll for the ensuing year. Clause 4 gives the council power to make out a list of all persons who have paid their rates, and who have not paid their rates, at any time, and to send it on to the Electoral Registrar. Under the Electoral Act, the town clerk is bound to deliver the list to the Electoral Registrar in the month of December. By this clause the Council, by special resolution, can make out a list and send it to the Registrar, so that if there be an election before December or in December, the Governor-in-Council may, by proclamation, have the names placed on the roll. The making out of these lists does not place the names on the roll, but simply gives power to place them on before December, and I take it there can be no objection to that, seeing that the

clause will not be operative unless used this year.

THE COLONIAL SECRETARY: Does the Bill supersede the Electoral Act?

HON. R. S. HAYNES: No; it does not affect the Electoral Act in any way.

THE COLONIAL SECRETARY: Because, if so, the Bill would have to be referred for Her Majesty's assent.

HON. R. S. HAYNES: The Bill only authorises the municipal council to make out a list and send it to the Registrar, and then the Governor-in-Council has power, by proclamation, to place the names on the roll and make arrangements for the purposes of the first election.

THE COLONIAL SECRETARY (Hon. G. Randell): The object of the first three clauses is one on which, I think, we can all agree. Municipal councils are empowered to make out lists of voters who have, as some contend, been wrongly struck off the roll; at any rate, they have been struck off by some inadvertence or some action of the council. I do not know how far the Bill will affect those municipal councils which collect all their rates at once, and not in two moieties, as other councils do.

HON. R. S. HAYNES: Such councils will have to pass a resolution enabling lists to be made out.

THE COLONIAL SECRETARY: The only objection is that this session was called for a special purpose, and it was agreed that no other Bills were to be introduced; but if this Bill be passed, the door might be opened to others, while we all desire to have the federation referendum and to meet again for the ordinary session of Parliament as soon as possible. No doubt those ratepayers who have been struck off the rolls have a grievance, to which, however, they may have contributed themselves, and nothing, so far as I understand it, can alter that aspect of the case. I do not think it would be possible for the Government to take any steps to place these people on the rolls until the annual list is compiled in December.

HON. R. S. HAYNES: Suppose there is an election before December?

THE COLONIAL SECRETARY: I presume the great thing is to have these voters on the list for the election of the next mayor, and that will be accomplished.

HON. R. S. HAYNES: That will be accomplished under Clauses 2 and 3.

THE COLONIAL SECRETARY: Any legislation affecting the Electoral Act would have to be reserved for the Queen's approval.

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

THE COLONIAL SECRETARY: And under the circumstances there is no need for the Bill, because it will be inoperative.

HON. R. S. HAYNES: Then there will be no election before December.

THE COLONIAL SECRETARY: For what?

HON. R. S. HAYNES: For the Legislative Assembly.

THE COLONIAL SECRETARY: I do not think so, but you cannot tell what is in the womb of the future. There may be a vote of want of confidence passed in the other House, and an election take place immediately; but, in the ordinary course of things, I do not think there will be an election before December.

HON. R. S. HAYNES: There will be an election for the Legislative Council.

THE COLONIAL SECRETARY: I have already, in answer to Mr. Matheson, dealt with that point, which is under consideration by the Executive, in consultation with their legal advisers, and I am not prepared to say when that election will take place.

HON. R. S. HAYNES: It will most likely take place before December.

THE COLONIAL SECRETARY: Most likely.

HON. R. S. HAYNES: Then the Bill will be operative.

THE COLONIAL SECRETARY: It would be well for Mr. Haynes to confine the Bill to the first three clauses, when there would be no difficulty in passing it through another place. The fourth clause reads:

The council of any municipality may, by like resolution from time to time and at any time, direct the clerk to prepare a list containing, in alphabetical order of surnames, the names of every person whose name appears on the electoral list of such municipality in respect of property situate within an electoral province or electoral district as defined by the Electoral Act, 1899, and of every person whose name would appear thereon but for non-payment of rates.

This list has to be transmitted to the Electoral Registrar; but the Bill does not provide what steps shall be taken to give

effect to the provision, and the list would lie in the office until the ordinary time when the lists come in from the municipal councils. If Mr. Haynes wishes the Bill to pass through Parliament for the purpose of restoring these voters to the roll, it will be well to accept my suggestion and strike out Clause 4; but to the other clauses I am pleased to give my support.

HON. A. P. MATHESON: I do not think Clause 4 will do any harm, because, as the Colonial Secretary has pointed out, it does not compel the Registrar to put the names on the roll.

HON. R. S. HAYNES: It cannot compel the Registrar to put the names on the roll.

HON. A. P. MATHESON: Just so; and so far as my recollection of the Electoral Act goes, the roll is composed of the roll of 17th May, together with any names put on since, which must have been on the roll for six months before they become effective. It is possible the clause may do some good, in case the Registrar discovers he has power to place the names on the roll. To begin with, there is no doubt these names should be on the roll.

HON. R. S. HAYNES: Cannot they be put on the roll by proclamation?

HON. A. P. MATHESON: In any case no harm can be done by passing the clause which brings up matters to the point at which a proclamation can be made.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2, and 3—agreed to.

Clause 4—Council may direct preparation of lists for electoral purposes:

HON. R. S. HAYNES assured the Colonial Secretary that the clause in no way interfered with or altered the Electoral Act, but only empowered the municipal council to prepare a list and send it to the Electoral Registrar, who could not put the names on the roll until December. The clause was necessary, however, in view of an election before December, say for the Perth Province, in which 618 persons who ought to be on the roll had been struck off.

THE COLONIAL SECRETARY: How did the hon. member interpret the section in the Electoral Act empowering the Gov-

ernor-in-Council to make the proclamation?

HON. R. S. HAYNES: The only construction that could be put on the word was that the Governor might direct the lists to be made out in September or October instead of December.

THE COLONIAL SECRETARY: That did not appear to be the correct interpretation.

HON. R. S. HAYNES: The object was to empower the Governor to alter the Act by proclamation for the purpose of the first election, should there not be time to make up the roll; and instead of waiting until the proclamation was made the councils would be enabled to have the somewhat lengthy lists in readiness. The Metropolitan Province had been considerably altered, and unless this clause were passed the people of South Perth, for instance, would be disfranchised. If there were an election in September or November, what roll would be used?

THE COLONIAL SECRETARY: The old rolls.

HON. R. S. HAYNES: The old roll could not be used. At present a municipal council could, by resolution, direct the town clerk to make out such a list as was provided for in the Bill and send it in to the Electoral Registrar: the provision was only made in the Bill so that there should be uniformity amongst all municipal councils. The clause in no way interfered with the Electoral Act. If so, he had enough sense to know that the provision would be of no avail until he had received the assent of Her Majesty. He was not likely to have a clause inserted in the Bill which would frustrate the object he had in view.

THE COLONIAL SECRETARY: The interpretation he put upon Section 164 was that it applied merely to formal matters, and could not at all interfere with the lists which had to be prepared. The only words which the hon. member could construe into meaning anything were "to enable anything required by this Act to be done in the preparation of the rolls under Part 2 of this Act."

HON. R. S. HAYNES: Periods and dates could be altered.

THE COLONIAL SECRETARY: That was all that could be done. Therefore, in his opinion, it was misleading to

have this provision in the Bill. It might be productive of some friction, or there might be some reflection on the Government in the future. It might be said that the Government did not exercise the power given to them because they did not wish electors placed on the rolls. That argument had been used, and would be used as long as people had peculiar turns of mind. He recommended the hon. member to strike the clause out.

HON. R. S. HAYNES: This matter had been spoken about elsewhere.

HON. M. L. MOSS: Had the Colonial Secretary any information from the law officers of the Crown that Clause 4 had the effect he had stated? Otherwise the explanation of Mr. Haynes ought to be sufficient.

THE COLONIAL SECRETARY said he had received an opinion to the purport which he had already stated. The clause would be inoperative for the purpose of getting names on the roll under the Electoral Act, because under the Electoral Act a list had only to be made up in the month of December.

HON. R. S. HAYNES: The opinion held by himself was contrary to that, and he had obtained the opinion of another member of the bar with whom he had been in consultation over the point for over half a day.

Clause put and passed.

Preamble and title—agreed to.

Bill reported without amendment, and the report adopted.

THIRD READING.

On motion by Hon. R. S. HAYNES, Bill read a third time and transmitted to the Legislative Assembly.

ADJOURNMENT.

The House adjourned at eight minutes past 5 o'clock until the next day.

Legislative Assembly,

Tuesday, 12th June, 1900.

Papers presented—Federation Enabling Bill, Council's Amendments (4)—Select Committee on Privilege: Comment on Evidence—Motion for Papers: Locomotive Engineer, Mr. R. B. Campbell—Motion: Members and Free Telegrams, Public Business (adjourned)—Municipal Institutions Bill (to reinstate electors on roll), first reading—Adjournment.

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

PRAYERS.

PAPERS PRESENTED.

By the MINISTER OF MINES: Return as ordered, showing Mining Leases Surrendered on Goldfields, and Compensation in connection therewith.

By the PREMIER: Mail Steamers calling at Fremantle, further correspondence.

By the COMMISSIONER OF RAILWAYS: Bathing Regulation (amendment), Swan River Jetties, etc.

By the COMMISSIONER OF CROWN LANDS (per Mr. Piesse): Regulations (various), Stock Diseases Act and Land Act.

Ordered to lie on the table.

FEDERATION ENABLING BILL.

COUNCIL'S AMENDMENTS.

Schedule of four amendments made by the Council, considered.

IN COMMITTEE.

Amendment No. 1, Clause 4 (extending hour from 6 to 9 p.m. on Saturday)—agreed to on motion by the PREMIER.

Amendment No. 2, Clause 8 (reducing distance from 30 to 20 miles for sending vote in absence):

THE PREMIER: This amendment merely meant that persons who resided or were distant 20 miles from the polling place at the time of taking the poll might send their vote, as in the case of an absent voter, and that this should be done if the distance was 20 miles instead of the 30 miles provided in the Bill and in the Electoral Act. He could not see any reason why the amendment should not be accepted in this special case. He therefore moved that the amendment be agreed to.

Question put and passed.