

Legislative Council,

Tuesday, 30th July, 1912.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

ADDRESS-IN-REPLY, PRESENTATION.

The PRESIDENT : I have received the following reply from His Excellency the Governor—

Mr. President and hon. gentlemen of the Legislative Council,—I thank you for the expression of loyalty to our Most Gracious Sovereign in your Address-in-reply to the Speech with which I opened Parliament. The protest expressed in your address will be transmitted in accordance with constitutional precedent. G. Strickland, Governor.

ASSENT TO BILLS.

Message from the Governor received and read, notifying assent to the following Bills:—

- 1, Supply, £1,003,361.
- 2, Supply (Temporary Advances), £150,254.

QUESTION—DAIRY COWS, STATEMENT BY AGRICULTURAL EXPERT.

Hon. D. G. GAWLER asked the Colonial Secretary : 1, Whether his attention has been drawn to the statement of Mr. J. M. B. Connor, the agricultural expert, as reported in the *West Australia*

of the 15th instant, particularly regarding the alleged dirty methods adopted in milking cows? 2, Whether the Commissioner of Public Health agrees with such statements? 3, Whether the Government will in justice to the dairymen, and in the interests of public health, make a full inquiry into the truth or otherwise of such allegations?

The COLONIAL SECRETARY replied : 1, Yes. 2, Yes, in many cases. 3, The matter is receiving attention.

QUESTION — REFERENDUMS IN WESTERN AUSTRALIA, PARTICULARS.

Hon. M. L. MOSS (for Hon. F. Davis) asked the Colonial Secretary : 1, How many referendums have been taken by Governments in the State of Western Australia? 2, If any, to what subjects did such referendums refer? 3, What was the cost of each referendum? 4, How many votes were recorded on each occasion?

The COLONIAL SECRETARY replied : 1, Four. 2, Local option, one (whole State); Early Closing, three (Metropolitan district, Albany and Geraldton municipalities). 3, Local Option, *£350 11s. 9d.; Early Closing, Metropolitan, £425 2s. 6d.; Albany, £12 1s. 5d.; Geraldton, £11 8s. 6d. (Early Closing total £448 12s. 5d.) 4, Local Option, £41,575; Early Closing—Metropolitan, £12,542; Albany, £876; Geraldton, £643. In addition, the State Electoral Office conducted a referendum on behalf of the Commonwealth Government in March, 1901. *Note.—The cost of the Local Option vote (£350 11s. 9d.) was low, as advantage was taken of the Federal Referendums, and the amount here shown was only the extra cost paid by the State.

BILL—ELECTION OF SENATORS' AMENDMENT.

Second Reading.

Debate resumed from the 18th July.

Hon. M. L. MOSS (West) : I moved the adjournment of this debate, but I have nothing to say on the second reading.

ing. I have no objection to the measure at all, except that when it gets into Committee I shall have something to say with regard to Clause 2.

On motion by Hon. J. E. Dodd, debate adjourned.

BILL — INTERSTATE DESTITUTE PERSONS RELIEF.

Second Reading.

The COLONIAL SECRETARY (Hon. J. M. Drew) in moving the second reading said: The object of this Bill is to provide a less expensive and more effective means of enforcing the support of destitute persons in cases where the person who is liable to maintain, or who has been ordered to pay, resides in or has removed to another State of the Commonwealth. It is found that very frequently husbands and fathers and others, who should maintain relatives, go beyond the State's jurisdiction in order to escape this obligation, and so they defy every practicable effort to compel its performance. Extradition is too expensive; the complainant can very seldom find the money necessary for the purpose, and it is also, as a rule, ineffective because the defendant is brought back. He may be occupied in some way which will bring in a fair income, and he is obliged to leave his work and return to the State. The Commonwealth Service and Execution of Process Act, 1901, does not deal with the matter unless the order is made by a court of record. Generally it is made by a police magistrate or a resident magistrate, who does not constitute the court. Even if it were otherwise it is very desirable that some more effective, and at any rate somewhat cheaper method, should be adopted. In this State there are many families who have become burdens on the general taxpayer because the heads of those families have left Western Australia and settled in some other portion of the Commonwealth. In some instances the deserters have been proved to be earning good wages but owing to the absence of suitable inter-State legislation to meet the position they are immune from interference and they cannot be called upon to

discharge their obligations. Then there are those who come from other parts of the Commonwealth and settle here, and who ought to maintain destitute families left behind them. Under this measure action can be taken against them by their dependents, provided those dependents reside in a State which adopts similar legislation to this. I draw attention to Clause 5. This establishes reciprocity by proclamation, that is, when every State in the Commonwealth has passed a Bill containing provisions for carrying out the objects set forth in Clause 6, which deals with the maintenance of destitute relatives, the Governor of Western Australia, by proclamation, may declare that Part 2 of this Bill may be enforced as regards that particular State or any other State which has adopted legislation of this kind. Under Subclause 2 of Clause 5 the same may be done with regard to Part 3 which makes provision for enforcing an order for maintenance made in another State. Subclause 3 enables the Governor to revoke the proclamation establishing reciprocity in regard to any State which has ceased to enforce the law. Clauses 7 to 10 mean that when another State has made such provision as I have mentioned, thereby signifying their willingness to reciprocate, a summons issued in this State for the relief of a person deserted here may be served in such other State. Clauses 11 and 12 provide for the hearing of the summons upon proof of service of the summons, or of international evasion of service, and for making an order for past and future maintenance. Clause 13 proposes to appoint a collector with assistants, if necessary, to aid deserted destitute persons to secure the relief offered by the measure. This is an essential part of the scheme. The machinery for carrying into effect all past and present legislation for service of process and enforcing orders beyond the State's jurisdiction has proved too complicated and expensive for the requirements of such cases as are under consideration. Clauses 14 and 15 provide for action being always taken through the medium of these collectors. The collector of one State deals directly with the collectors in other States. Orders made by a court are transmitted from one collector

to another and the collector receiving the order takes the necessary action to have it enforced, after having it endorsed by a justice of the peace. Under Clause 16 after having had the order endorsed, the collector should serve a copy of the order upon the person against whom it is made. Clause 17 sets forth that after service, all moneys payable under the order shall pass through the hands of the collector. Clause 18 defines other powers and duties of the collector, including the collection of moneys, the keeping of proper accounts, the filing of necessary records, the regular remission to other collectors of moneys to which they are entitled, and the distribution to the rightful parties of the moneys received from collectors appointed in other States. Clause 19 makes it the duty of the collector to send to collectors of other States orders for relief made in favour of residents of this State with affidavits and information to assist in identifying and discovering the persons intended to be served. The scheme thus outlined will, it is feared, lack seriously, if not entirely, in effectiveness unless provision is made casting on the person served with a summons or order the onus of proving that he is not the person to be served therewith. If identity has to be proved in the ordinary way, the expense of travelling or sending witnesses to another State to give evidence will be prohibitive. Clause 21 has accordingly been framed for this purpose. In Clause 22 it is proposed that orders made under the measure shall be enforced under the Acts relating to the summary jurisdiction of justices of the peace. So with regard to orders made enforceable under the Bill, but for the sake of uniformity and bona fides the latter are to be enforced only at the instance of a collector. Clause 24 will ensure prompt and thorough administration. It is made penal for officers to neglect due diligence in the discharge of their duties. Those being the provisions of the measure I beg to move—

That the Bill be now read a second time.

Hon. M. L. MOSS (West): I have much pleasure in supporting this necessary piece of legislation. It is rather a

scandalous state of affairs how easily persons responsible for the maintenance of women and children escape their burdens under the laws as they exist at the present time, and it is particularly scandalous in the case of men who are judged to be the reputed fathers of illegitimate children. It is a common practice in connection with such cases of maintenance that the fathers clear out of the State as soon as an order is made against them by the court, and the unfortunate woman is left to bear the burden of bringing up the illegitimate child. This measure will go some way towards compelling people to shoulder the responsibility which justly rests upon them. There is no doubt that at the present time it is beyond the ability of the unfortunate people who are left behind stranded, to pay for the enforcement of an order against defaulters, the defaulters having cleared out of the State to other parts of Australia where the strong arm of the law cannot reach them. It is quite true that the Commonwealth Service and Execution of Process Act only extends to the orders of such courts as are courts of record. The orders are made either by a police magistrate or a justice exercising jurisdiction under the Justices Act; consequently the Federal legislation does not reach these people. The intention of the Bill is that if similar legislation is passed in another State there will be the means of publishing certain proclamations, the effect of which will be to make the law operative in each State of the Commonwealth which passes a similar measure. I would not have risen to make these observations but for the fact that it seems to me that the Bill is somewhat deficient. I want to mention this so that the Minister may correct the hurried opinion I have formed with regard to what appears to me to be a serious defect. Part 2 of the Bill deals with summons for maintenance against persons in another State. Part 3 provides for enforcing an order for maintenance made in another State. Take the case of an order for a maintenance made, say, in Victoria, and the absconder is in Western Australia, and you have to

enforce the order by the Petty Sessions Court in Victoria. It comes to the collector whose duty it is to carry out certain formalities described in Clauses 14 and 15. It must be remembered that the order is made in another State, and say it is for £1 a week for the maintenance of a person's wife and you seek to enforce that order in this State. What is to be the alternative against the non-payment by the absconder? In Victoria the alternative would be imprisonment under the law that regulates such transactions. It is not clear under this Bill, so far as I can see, whether the alternative is to follow the rules laid down by the statute in Victoria under which the order is made similar to the Justices Act in this State, or whether imprisonment is to follow according to the scale laid down in the Western Australian Justices Act. If there is anything in the point, this is a serious defect in the legislation. I have not read the Bill as carefully as I might have done, but I think the point I am raising is important in the respect that if the power to enforce is merely that you shall order the absconder to pay 20s. a week, it will not be possible to follow it up by imprisonment. If that fact arises because there is not a clause in the Bill providing that the provisions of the Justices Act shall be applied as if it were an order originally made in Western Australia, then the Bill is very deficient. I want to draw the attention of the Colonial Secretary to the last clause which provides—

There shall be an appeal from any conviction under this Act or from any order dismissing any information for any offence against this Act or any other order made on any such complaint and Part 8 of the Justices Act, 1902, shall apply.

Is it not necessary to provide by another clause that the provisions of the Justices Act where the fault is made, when the collector in this State takes proceedings against an absconder for default under a Victorian order, that the scale of imprisonment in the Justices Act shall apply? I do not know that I can make

the point much plainer and I hope the hon. member understands. I have just noticed that Clause 22 reads—

Any order made under this Act, and any order made enforceable in this State by virtue of the provisions of this Act, may be enforced in the same manner as an order requiring the payment of a sum of money is enforceable, and all moneys which, by any order made under this Act or by any order so made enforceable, are adjudged, ordered, etc., may be raised and levied, or as payment thereof may otherwise be enforced under the provisions of the Justices Act, 1902.

I am not certain that that even is sufficient to enable them to do more than levy money in cases of non-payment. I want the Minister to be thoroughly satisfied by the Crown Law officers that the clause gives sufficient power to imprison a defaulter. On the whole the measure is exceedingly good and I think that when something is done to it here it will be a valuable aid in compelling people to shoulder responsibilities which, I am sorry to say, too many men—I will not call them men—too many people try to shirk. I know of repeated instances of these orders being made against fathers of illegitimate children, who then clear out of the State, and there is no way to make them obey the order of the court. I have much pleasure in supporting the second reading.

On motion by Hon. F. Davis, debate adjourned.

BILLS (5)—FIRST READING.

- 1, Nedlands Park Tramways Amendment.
- 2, North Fremantle Municipal Tramways Amendment.
- 3, White Phosphorus Matches Prohibition.
- 4, Methodist Church Property Trust.
- 5, Excess (1910-11).

Received from the Legislative Assembly.

ADJOURNMENT—STATE OF BUSINESS.

The COLONIAL SECRETARY (Hon. J. M. Drew): I move—

That the House at its rising adjourn until Tuesday, 6th August.

Hon. M. L. MOSS (West): I second the motion. My only object in rising is to ask the Minister whether he is quite satisfied that when we come here next week we will be in the Chamber more than half an hour. If not, would it not be as well to adjourn until 13th August? It would be a pity to bring the country members down if there is to be only a short sitting.

The COLONIAL SECRETARY (in reply): I think there will be work to keep us occupied for a week or a fortnight. I did not think there was any justification for bringing members down from the country this week; there would have been something for them to do, but not sufficient to justify me in asking them to come to the City, so I notified them by circular that the House would sit for only a short time to-day. On our reassembling next week there will be a sufficient quantity of work for some weeks.

Question put and passed.

House adjourned at 5.3 p.m.

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The SPEAKER took the Chair at 4.30 p.m., and read prayers.

PAPERS PRESENTED.

By Hon. W. C. Angwin (Honorary Minister): 1, By-law under "The Health Act, 1911," Section 175, Claremont road district. 2, Annual report on Medical, Health, Factories, and Early Closing for 1911.

QUESTION—BROOME MURDER.

Mr. NANSON, in giving notice to move for the return of papers connected with the commutation of the death sentence passed on the murderers of Constable Fletcher at Broome, said: I ask whether the Premier will treat this motion as a formal one?

The ATTORNEY GENERAL: No.

QUESTION—FLAG ON PARLIAMENT HOUSE.

Mr. GREEN gave notice to ask: 1, Will the Premier arrange to have the Australian flag hoisted over Parliament House during the days of sitting in future? 2, If this is not allowable, will he have our own State flag hoisted as well as the British flag, as is the custom at the Parliament House in New South Wales?

Mr. SPEAKER: I can inform the hon. member that it is not a question the Premier should answer, and if the hon. member will see me in my room I will explain why.