

would offer no objection to any course which the Council might recommend in regard to the question before the House. The Government would cheerfully acquiesce in any arrangement that the House thought fit to recommend. He thought he had said enough to show that there had been no desire on their part, as had been alleged, to make a raid against newspaper proprietors, but that, on the contrary, the Government had been actuated solely by a desire to do the best they could in the interest of the public. Moreover, it would be borne in mind, that the proprietors of newspapers had no just cause to complain about the postage fee, inasmuch as the moment the tax was reimposed they increased the price of their journals, and it appeared to him, that they got very good interest indeed on the money they expended in postage stamps.

Mr. STEERE moved the adjournment of the debate, and expressed a belief that it would be better to appoint a select committee to consider and report upon the question before the House.

Mr. MARMION seconded the motion for an adjournment.

Progress reported, and leave obtained to sit again.

The Council adjourned at 3.20 p.m.

LEGISLATIVE COUNCIL,

Monday, 6th July, 1874.

Refreshment Committee: appointment—Privilege—Ill-treatment of Wives—Confirmation of Expenditure Bill: second reading: select committee.

The SPEAKER took the Chair at 6 p.m.
PRAYERS.

REFRESHMENT COMMITTEE.

Appointment.

Mr. STEERE, with leave, without notice, moved that a committee be appointed to superintend the providing of refreshment for the use of members, such committee to consist of the Surveyor General (Hon. M. Fraser), Mr. Birch, and the Mover.

Question put and passed.

PRIVILEGE.

The ACTING ATTORNEY GENERAL (Hon. G. W. Leake): I am of opinion that the appointment of Messrs. Burt and Glyde, as non-elected members of the Legislative Council, is valid. My reasons are as follows:—

The provisions of the Act of Parliament 5 and 6 Victoria, c. 76, s. 12, seem to contemplate the return of Writs at the commencement of a Council, and not to provide for the case of the increase of the number of members during a term; and I think it well to state the facts and give my reasons at length.

At the commencement of the present Council the whole number of the Council was 18: the elective members being 12, and the non-elective members 6. But in the course of its term a non-elective member, Mr. Bussell, resigned his seat, and the number of the members of the Council was by the Act 37 Victoria, No. 22, raised, by the addition of 3 members, to 21.

The Governor had therefore two members to nominate: one in the room of Mr. Bussell, the other as one of the additional members; and Mr. S. R. Hamersley having been elected for the newly-created district of the Murray and Williams, the Writ was duly returned.

The Writ for the district of the North has not yet been returned; but there is every reason to believe that it is in course of transmission from Port Walcott, and that an election has been had under that Writ.

After the return of the Writ for the election of the member for the new electoral district of the Murray and Williams, Messrs. Burt and Glyde were nominated by the Governor as non-elective members. I, too, took the oaths and my seat as an official non-elective member, as Acting Attorney General in the room of Mr. Hocking, now Acting Chief Justice of the Colony.

The Acts of Parliament 5 and 6 Victoria, c. 76, and 13 and 14 Victoria, c. 59, are eminently beneficial and remedial statutes; and therefore full effect must be given to their objects and provisions.

Directly the number of the Council was increased from 18 to 21, the Governor had, under the 13 and 14 Victoria, c. 59, s. 11, the power (even supposing the election of only one additional elective member had been provided by the

Act of Council 37 Victoria, No. 22), of nominating an additional non-elective member. And upon the rigid literal construction of the provisions of these Imperial statutes, the Governor could only nominate non-elective members, whether official or non-official, on the return of the Writ for the election of the new elective member. And it can be hardly contended that because the Writ for the election of one of two elective members had not been made, the right of the Governor to nominate a non-elective member, which accrued on the election of one member, was thereby nullified.

If such a proposition be true, it is true not merely as to Messrs. Burt and Glyde, but also as to myself. For I am (within the literal interpretation of the 12th sec. of the Act 5 and 6 Victoria, c. 76, engrafted into the 13 and 14 Victoria, c. 59, by sec. 12 of that Act,) a non-elective member. And therefore, while the Writ for the North is not returned, I am under the same disability as Messrs. Burt and Glyde, and could not take my seat in Council until the return of this Writ.

And this circumstance is, to my mind, conclusive that the present state of facts is a *casus omissus* in the Imperial Acts: and that the nominations of Messrs. Glyde and Burt and myself are valid: and that the prohibitory words in the 12th sec. of the 5 and 6 Victoria, c. 76, apply to the commencement of a Term of the Council and not to the commencement of a Session of the Council.

ILL-TREATMENT OF WIVES.

Mr. PADBURY, in accordance with notice, asked the Colonial Secretary, whether the present law, as it stands, gives sufficient power to magistrates and the police to deal summarily with men for ill-treating their wives; and, if not, whether the Government would so alter it as to give such powers. The crime of wife-beating was becoming so prevalent in the colony, that he was induced to put the question with the view of calling attention to the matter.

The COLONIAL SECRETARY (Hon. F. P. Barlee) replied that the law in this colony was the same as the law in England with regard to the offence alluded to by the hon. member, and the Attorney General saw no necessity for fresh legislation.

CONFIRMATION OF EXPENDITURE BILL.

Second Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee) in moving the second reading of the Bill to confirm the expenditure for the services of the year 1873, beyond the grant for that year, said he thought it as well to follow the usual practice adopted since the present Council was established of settling the financial operations of one year before proceeding with the finances of another; and as a motion stood in his name among the Orders of the Day, for the House to resolve itself that evening into a Committee of the whole to take into consideration the financial services for the ensuing year, he had thought it best, before bringing forward that motion, to move the second reading of the Bill to confirm the expenditure for the services of the past year, beyond the grant voted for that period. The Bill before the House could be explained in a very few words, and he trusted, to the entire satisfaction of hon. members. The whole amount of overdrafts the past year amounted to £9,318; of this sum, however, there was an actual underdraft of £2,035, reducing the excess to £7,283. Out of this sum nearly £3,000 was on account of the extension of the telegraph to Champion Bay, which sum had subsequently been refunded out of the loan contracted on account of the telegraph service, while a further sum of £584, paid for refunds to the Commissariat on account of duties upon goods purchased on convict account, reduced the actual amount of overdraft to about £3,500. Now, bearing in mind that the estimated expenditure for the past year amounted to £115,825, he thought it would be seen and readily allowed by every member of the House that the Executive Government had endeavored as far as practicable to keep within bound of the Estimates. He was free to confess that to him a margin of £3,500 on an estimated expenditure of £115,800 appeared a very small margin indeed, and he thought the merchant whose actual business expenditure so closely approximated his estimated expenditure must be deemed a very fortunate man indeed. The actual excess during the year had occurred in respect of postage in the public offices—a sum of about £700; in connection with the cost of inland postal service, a sum of £1,200 (as to this item, however, there was a corresponding deduction from the mail steamer subsidy); in connection with the Harbor Department,—consequent upon bad weather—on account of buoys and beacons imported from England, a sum of £400; in respect of the medical service a sum of £1,000,

consequent upon the transfer of convict hospitals—a considerable proportion of this sum, however, had been repaid by the Convict Department; and, in connection with pauper allowances, an increase of £1,300. This rendered the actual overdraft for the past year about £3,500, which, as he had already said, he conceived to be a very close adherence to the estimated amount of expenditure for the same period—closer than it had ever been heretofore.

Mr. STEERE said he would not oppose the second reading of the Bill, but when the motion for going into Committee upon it was made, he would certainly move an amendment, to the effect, that the Bill be referred to a select committee, with the view of examining all the details of the various items of expenditure alluded to. In respect of some of those items he could not well conceive, without being in possession of all the particulars relating to them, how such an excess could have arisen. For instance, an overdraft of £700 on account of postage in the public offices appeared to him to be an enormous increase over and above the estimated expenditure on account of that service. There were other items with reference to which he would be glad to obtain further and more detailed information, and for this reason he would move, when the time for doing so arrived, that the Bill be referred to a select committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he had no objection whatever to the Bill being referred to a select committee, being convinced that, as had been the case on former occasions with select committees on departmental expenditure, that the more the House inquired into the various items the more satisfied it would be that there had been no wasteful or unnecessary expenditure. Nevertheless he had hoped that, before the House took into consideration the financial services of the ensuing year—which was one of the Orders of the Day for that evening—it would have first disposed of the financial operations of the past year. If the hon. member's amendment were adopted, he (Mr. Barlee) did not propose to ask the House to resolve itself that evening into a Committee of the whole to consider next year's financial services. The hon. gentleman then moved that the House do go into Committee on the Confirmation of Expenditure Bill.

The ACTING ATTORNEY GENERAL (Hon. G. W. Leake) seconded the motion.

Select Committee.

Mr. STEERE, as an amendment, moved that the Bill be referred to a select committee.

Mr. PADBURY seconded the amendment, which was affirmed.

A ballot was resorted to for the election of the select committee with the following result:—Messrs. Steere, 14; Barlee, 13; Marmion, 10; Birch, 8; Burt, 7; and Padbury, 7. The numbers for Messrs. Burt and Padbury being equal, the Speaker gave his casting-vote for the latter.

The COLONIAL SECRETARY (Hon. F. P. Barlee) then intimated that he did not then intend to proceed with the motion that stood in his name, for the House to go into Committee of the whole to take into consideration the financial services for the ensuing year.

The Council adjourned at 7 p.m.

LEGISLATIVE COUNCIL,

Tuesday, 7th July, 1874.

Swearing in of Member—Moorings—Bail-bond, Jenkins *versus* Simpson—Marine Surveys, Fremantle Harbor—Land Transfer Duty Act Amendment Bill: second reading and committee—Transfer of Land Bill: second reading: select committee—Paper Tabled—Aboriginal Native Offenders Amendment Bill: second reading—Imported Labor Registry Bill: second reading—Telegraphic Messages Bill: second reading—Game Bill: second reading—Charitable Institutions Bill: second reading: select committee—Exportation of Horses Bill: second reading: in committee—Miners Water Supply Bill: second reading—Education Act Amendment Bill: second reading—Wines, Beer, and Spirit Sale Act, 1872, Amendment Bill: second reading: select committee—Dogs Ordinances Amendment Bill: second reading.

The SPEAKER took the Chair at 12 noon.

PRAYERS.

SWEARING IN OF MEMBER.

The SPEAKER administered the Oath of Allegiance to Mr. Broadhurst, the newly appointed nominee (*vice* Sir Thomas Cockburn-Campbell, resigned, consequent upon his election for Albany).

MOORINGS.

Mr. CAREY, in accordance with notice, asked the Colonial Secretary, whether the moorings for Geographe Bay and elsewhere, for which the sum of £1,000 was included in the Loan Bill of 1872, had been received; and if so, why they had not been laid down.