

LEGISLATIVE COUNCIL,

Thursday, 9th August, 1883.

Appropriation Bill (Supplementary), 1883: first, second, and third readings—Telegraph posts between Perth and Fremantle—Clackline route: Mr. Wilson's report—Salaries of Magistrates' Clerks—Volunteer Bill: in committee—Messages (Nos. 10 and 14) referred to Select Committee—Pearl Shell Fisheries Bill: in committee—Exemption of Justices from Juries Bill: debate resumed—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

APPROPRIATION BILL (SUPPLEMENTARY), 1883.

THE COLONIAL SECRETARY (Hon. M. Fraser) moved the first reading of this Bill, which being agreed to, the Standing Orders were suspended, and the Bill read a second time, and committed.

IN COMMITTEE.

Clause 1.—Further appropriation of £24,322 9s. 4d., for the year 1883:

MR. STEERE said that when the Supplementary Estimates were under consideration, a vote of £3000 under the head of "Jetty, platform, and other works at Derby" (the new townsite in the Kimberley District), was passed by, without any information whatever being offered or asked for in reference to the vote, and he thought members would be glad if the Colonial Secretary would now furnish them with some information as to how it was proposed to expend all this money, and whether it embraced the expenditure which would have to be incurred in taking back to the district the framework of the buildings sent up some time ago, for the Government party, but which had to be brought back to Cossack, owing to the difficulty of landing.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the anticipated expenditure in connection with the reconveyance and re-erection of the Government buildings designed for the Kimberley party was provided for in this vote. In addition to that, it was proposed to provide facilities for the landing of all stock, stores, and other materials intended for the district, and also for the shipment of produce from the district. To this end it was proposed to erect a jetty

and to construct a platform at Derby, where goods and stock could be embarked and disembarked. It was also intended to construct a tramway across the marshy ground which intervened between the beach and the mainland—a distance of about 95 chains. The Surveyor General, who had recently visited the district, informed him that a tramway could be laid down in a very short time, and when this was done there would be no difficulty in having goods conveyed from the beach to the new townsite. In conjunction with this tramway there would have to be a jetty and a platform, and in order to convey the materials and labor which would be required for these works it would be necessary to charter a vessel, which, on its way up, would call at Cossack and take on board the building materials brought back and left there by the *Amur*. The necessary skilled labor for erecting the buildings would be sent up, so that once the tramway is laid down—which would probably be the work of about a fortnight—the materials could be trucked from the jetty, over the marsh, to the townsite, without any difficulty. The vote of £3,000 asked for, and already granted by the House, was intended to meet all this expenditure, which, he need hardly say, would be closely watched. It was impossible to say exactly, within a few pounds, what these necessary and important works would cost, but the Government would take care that the utmost economy was exercised.

MR. BROWN asked how it was intended to appropriate this £3,000—how much was proposed to be severally expended on the various works contemplated?

THE COLONIAL SECRETARY (Hon. M. Fraser) said the figures which had been placed before him were as follow: Platform, £100; tramway, and its connection with the shore, £450; jetty, and erection of, £500; transport, including charter of vessel, £1,100; erection of buildings, £250; dray and team of horses, £110; wages, including skilled labor, £360; and incidentals, £130—making a total of £3,000.

MR. STEERE said, so far as he could understand, the reason why the building materials sent up by the *Amur* had been brought back, was because there were no

means of conveying them from the ship to the townsite, and it appeared to him the same difficulty would be met with when the vessel arrived there again, unless the charter party stipulates that the ship's boats shall land the materials. He should have liked to have heard the Government admit—though it was not very likely they would admit—that there really had been some mismanagement in connection with this matter. There could be no doubt about it that the agreement entered into as to landing the materials was not strict enough, and he hoped that in future the Government would be more careful in protecting their own interests. He also hoped that, in future, tenders would be invited from shipowners for the performance of such services as this. He was informed, on good authority, that when the *Amur* got this charter there were other vessels seeking for work, which would have done it much cheaper. Be that as it may, tenders ought to be invited, and he hoped that in future tenders would be invited, and that the Government would take care to protect themselves from such losses as had been sustained on this occasion.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) defended the captain of the *Amur*, who, he said, had done all he could in the matter of assisting the survey party, and who (he was informed by Capt. Coghlan, R.N.) deserved every credit for the way he entered King Sound and placed his ship. There had been some little dispute at first between the master of the *Amur* and the Government Resident, but no demurrage was claimed until the time the vessel came close to the land.

MR. SHENTON said if the same precaution had been taken by the Government in preparing the charter party as private gentlemen took when sending stock to the district, he could not see how the colony could have been called upon to pay this extra money for removing the material from Kimberley to Cossack. He also thought the Government had made a great mistake in not throwing the work open to public competition; the shipping business just at the time was very depressed, and if tenders had been invited—as he hoped would be done in future—there would

have been offers made to perform the service by other parties.

MR. GRANT said he was a disinterested party so far as regards this matter, and he thought the Government had exercised every care. He did not think it was at all necessary that tenders should have been invited. Captain O'Grady was a man who was well known in the district, and who knew the district well himself, and from his knowledge and experience of the place was about the only man which the Government could have entrusted with the work. He thought the Government were quite justified in giving him the contract.

MR. MARMION said he of course had every respect for the opinion of the hon. member for the Swan with reference to nautical matters, but he claimed to have some little knowledge of shipping himself, and he would point out that it was a very different thing to take a vessel to a place which was comparatively unknown and which had not been surveyed, and taking a vessel to a place well known and surveyed. The captain in this instance had done what he considered to be his duty, in the interests of his employers, and no one could blame him for doing so. He was surprised to hear the hon. member for Toodyay stating that if the Government had taken the same precaution as private parties took when agreeing upon a charter party, there would have been no difficulty in the matter of landing these building materials. The hon. member seemed to forget that there was a great difference between a charter party for live stock to King Sound—a place bearing the worst possible reputation—and a charter party to Beagle Bay, where ship's boats could discharge, without much difficulty or danger.

THE COLONIAL SECRETARY (Hon. M. Fraser) said he quite agreed in the principle that tenders should be called for, but there were more ways than one of calling for tenders. To advertise in the newspapers in this instance would not have gone one bit further than the steps which were taken by the Government in the matter. The leading shipping agents in Melbourne and Adelaide were communicated with, by telegraph, at the earliest possible moment after it

was determined to send up the expedition, and what was the result? That no vessel would undertake a charter to the North-West coast unless the Government took upon itself the insurance, in the event of the vessel having to call at any place which was not a declared port. The Government then made inquiries here (not through the newspapers certainly, but they instituted inquiries) with the result that no local firm who did not insure their own ships would look at the charter. The firm to which the *Amur* belonged were their own insurers and took their own risks, and the best terms that could be made were made with the owners,—terms which the Government deemed reasonable terms at the time. If, through force of circumstances, following upon the arrival of the vessel at this unsurveyed place, it was discovered that there were difficulties in the way which were not foreseen, allowance must be made for them.

MR. BROWN expressed a hope that after the experience which the Government had now had of this place, steps would be taken to prevent a recurrence of the circumstances which had led to the building materials having to be brought back. Did they intend that, the next time the vessel went up, she should lay there until this jetty and platform shall have been erected? He thought they would have to be very sharp indeed, if they got this structure up within a fortnight.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) had no doubt that when the next charter party was entered into the Government would insist upon as long a time as they could. He did not himself think it would take a very long time, if provision were made for floating the timber ashore. After all said and done, the only loss to the colony with regard to the building material taken up by the *Amur* was simply the cost of bringing it back from King Sound to Cossack, which could not be a great deal.

MR. CAREY expressed a hope that the Government would not spend any more money in building materials or jetties until they ascertained whether the site selected for a township was a desirable site, about which there appeared to be considerable doubt and divergence of opinion.

MR. RANDELL said he did not know what was intended to be the practical result of the debate, as he believed it was the intention of the committee to confirm this expenditure. It struck him, however, that one or two questions arose for the consideration of the Government, and, in the first place, whether it would not be wise economy to utilise on the spot at Cossack the building materials brought back by the *Amur* from Kimberley, rather than to have a vessel calling there for these materials—whether it would not be wiser to take fresh materials, direct from Perth, for the Government buildings at Derby, rather than to reship the materials now lying at Cossack, where no doubt plenty of use would be found for them. With regard to the causes which gave rise to the timber required for the Government residency at Kimberley not being landed, he thought, with other hon. members who had spoken on the subject, it was to be regretted—and no doubt it was regretted now by the Government itself—that these materials were brought back; but, so far as the information at their command went, there appeared to have been no help for it. Under other arrangements probably different circumstances would have arisen, and different results would probably have ensued. The captain of the *Amur* (Mr. O'Grady) was known to them as a man of energy and a man of resource, and he could not help thinking, if proper arrangements had been entered into by the Government with the owners of the vessel, stipulating that the captain should undertake the landing of these materials, the captain, notwithstanding the difficulties in the way, would have found means of doing so. The captain, however, had to look after the interests of his owners, and to follow the instructions given him, he presumed, by his principals, and, under the circumstances, it appeared that the captain thought the most prudent course to adopt was to bring the materials back to Cossack. If, as the Surveyor General said, the spring tides occasionally covered the marsh referred to, he felt no hesitation, from his knowledge of these matters, in saying there were no insurmountable difficulties in the way of landing this timber, although no doubt it would have been a very tedious operation. He

trusted that on the next occasion the Government chartered a vessel to take up the heavy material required for the structures proposed to be erected, care would be taken that some agreement is entered into, rendering it incumbent upon the master of the vessel to land it, with his own boats and his own tackle—which ought to have been done in the first instance.

MR. SHENTON concurred that it would be better to leave the building materials now at Cossack on the spot, and to send up fresh materials direct from Fremantle. As to the landing of them, when they got to their destination, he hoped the Government would see, on the next occasion, that they left no loop-hole in the charter party for these materials to be brought back, as they were before, instead of being landed.

MR. CROWTHER: I hope the Government will do nothing of the sort. Let them make up their minds what they want in the shape of jetties, tramways, and buildings, and then let them call for tenders for their erection, and see that those who are entrusted with the work, and with making the necessary arrangements, are men who know what they are about. A man may be a very good Commissioner of Crown Lands, or a very good Colonial Secretary, but a very moderate man indeed to take charge of shipping business; he may be an excellent hand at laying out a townsite, but know very little about landing goods under difficulties. The common-sense thing for the Government to do in this matter is to let the world know, through the public papers, that they want a jetty of such and such a length built, that they want a Government House erected consisting of so many rooms, that they want a tramway laid down—in short, let the Government do as other people, endowed with common sense, would do—call for tenders for the performance of this work, and then, without any trouble on their part, the work will be done, and it will be their own fault if it is not done properly and at a reasonable price. I concur as to the advisability of the building materials brought back to Cossack being left there. We are told the benighted people up there want a school building, and that they want a church; and, if they will go in for these

“sports,” I would suggest that this would be a good opportunity for gratifying their sporting proclivities. Let these building materials be devoted to this purpose. Above all things, let the Government religiously abstain from meddling with work they really know nothing about; let them call for public tenders for the performance of these services, from men who do know something about the business.

The matter then dropped, and the Bill, having been agreed to in committee, was read a third time, and passed.

TELEGRAPH POSTS BETWEEN PERTH AND FREMANTLE.

MR. SHENTON, in accordance with notice, asked the Colonial Secretary, “Whether any report had been made to the Government relative to the dangerous state of a large number of the telegraph posts between Perth and Fremantle?” It had come under his own personal observation that some of those posts were in an advanced state of decay, and dangerous to passers-by.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the attention of the Government had been drawn to the matter.

CLACKLINE ROUTE: MR. WILSON'S REPORT.

In reply to Mr. SHENTON, THE COMMISSIONER OF RAILWAYS (Hon. J. E. Thomas) said no report had been made by Mr. Wilson, the railway surveyor, on the line of country between the Clackline and Newcastle, but a section of the proposed route had been made by that officer, from which it appeared that the line was a very bad line indeed,—in fact he (the Commissioner of Railways) would never recommend it to be carried out, as the working expenses would be enormous. He thought it would be better if the line were carried to Northam and perhaps Irish Town, and from there along the river to Newcastle. This would double the distance, but he did not think it would cost very much more than the direct line from the Clackline to Newcastle.

SALARIES OF MAGISTRATES' CLERKS.

IN COMMITTEE.

MR. STEERE said, when the question of granting an increase to the salary of the Magistrate's clerk at Albany was under consideration the other day, he objected to it amongst other reasons because he thought it was invidious and unfair that this officer alone should be selected, whilst others who had been a longer time in the service had been ignored, and he then stated that if that vote was carried he would move that an increase of salary be also given to several other Magistrate's clerks, who, in his opinion, were equally deserving of it. He therefore now moved, That an Humble Address be presented to His Excellency the Governor praying that he will be pleased to place upon the Estimates for next year such a sum of money as will provide an increase of £25 per annum to the clerks to the Magistrates at Champion Bay, Perth, Fremantle, North District, York, Bunbury, Vasse, and Newcastle. He had originally intended including the Swan and Greenough in the list, but the clerk to the Swan bench was quite a young man, who had only just been appointed, and could hardly be regarded as entitled to any increase yet, while, as to the clerk at the Greenough, that also was a recent appointment, and the clerk there had very little to do. It had also been intimated to him that there were reasons why the clerk at Newcastle should not have an increase; he believed this officer was drawing a pretty large superannuation allowance—having been formerly in the police—in addition to his salary. But although he was not prepared at the present moment to exclude Newcastle from the list, he considered that, when the Estimates came under discussion, any hon. member would have a perfect right to object to the vote under the head of Newcastle, although the motion should be carried in its present shape.

MR. CROWTHER asked when the long-promised information was likely to be granted, showing the entire amount of the emoluments received by all Government officers in the service, from every source? He thought it was very desirable the House should be placed in possession of this information before

they proceeded to deal with the question of salaries, as no one knew what some of these officers might be drawing in addition to their pay as clerks to Magistrates.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the information asked for would be furnished in the Blue Book, the delay in the publication of which he regretted, owing to the pressure of other work at the Government Printing Office. With regard to the motion before the committee, he rejoiced to think that a new light was beginning to dawn upon the hon. member who brought it forward, and upon hon. members generally—that Government officers were an underpaid body. He looked upon the motion as an invitation to the Government to increase the salaries of all other clerks in the service. It would be invidious—to use a word which had become very fashionable of late—to pick out those young men who had the good fortune to be clerks to Magistrates, while other Government clerks were left out in the cold. He hoped the House, while in this generous mood, would not stop at officers holding subordinate positions in the service, but that the claims of heads of departments would also be recognised, and that this process of levelling up would extend throughout the whole establishment. If the increase depended upon individual merits, he was sure the House would recognise the strong claims which the occupants of the Treasury bench had upon the country. If this motion should be agreed to—and he had no doubt it would, in the present temper of the House—he thought the Government might fairly look upon it merely as a modest instalment of the additions which hon. members wished to see made in the salaries of the public servants generally.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said, as to the clerks at the Swan and the Greenough being young men and only recently appointed, he took it that in apportioning salaries the object in view was to pay what the office itself was worth, and not to vary it according to the age of the person filling the office. The work was the same, and the responsibility the same, whether a clerk was a young man or an old man.

MR. CAREY: A new light has suddenly dawned upon the hon. gentleman. It is strange that when it was proposed, a few days ago, to add £50 to the salary of the clerk at Albany, in consideration of his long service, the hon. gentleman did not view this matter in the same light. The officer to whom the Government in that instance asked for an extra £50 may be removed to-morrow, and a junior clerk appointed in his place.

MR. STEERE failed to see why the Colonial Secretary should view the motion in the light of an invitation on the part of the House to increase the salaries of Government officers all round, including the heads of departments. He assured the hon. gentleman he never contemplated any such thing. Although he believed that, as regards the lower grades of public officers, the service was certainly not overpaid, he could not go so far as to say the same thing with regard to the heads of departments, nor would he be prepared to vote any increase under that head. He wished to point out that, as regards Magistrates' clerks, those officers stood in an entirely different position from any other Government clerks; they did not participate in the annual increase of £10 which other clerks in the service were entitled to. Nor were they looked upon as belonging to the classified staff of Government officers, as being entitled to promotion. True they had got it sometimes, but it was to be regarded as an exceptionally fortunate circumstance, and, as a rule, these officers stood entirely by themselves, as a distinct class, and it was for this very reason that he had selected them out for the proposed increase.

MR. MARMION would be happy to support the motion, which he hoped would meet with the approval of the committee. When the day came for recognising the claims of the heads of departments, as regards an increase of pay, no doubt, if those claims rested upon individual merits, the hon. gentleman who now led the Government in that House would have no cause for complaint.

MR. BROWN said his sympathies went with the resolution so far as the proposed increase to the salaries of Magistrates' clerks went, but he thought

they were acting very much in the dark, and he did not consider they would be acting quite consistently. When he agreed to the increase of £50 to the clerk at Albany he stated that his reason for doing so was because he thought the importance of the office and the claimant's length of service entitled him to that increase, which would bring his salary up to something over £200 a year; whereas here it was only proposed to add £25 to the salaries of these other clerks, which as regards most of them would certainly not bring up their salaries to £200. Yet some of these officers—the clerks at Geraldton, Perth, and Fremantle for instance—were entitled to as much consideration as the clerk at Albany, and deserved to be placed in the same category. If the committee agreed to the resolution in its present form it would pledge itself to an increase of £25 all round, irrespective of the individual claims of the clerks concerned, and the importance of their respective offices, as regards the duties to be performed. He thought there ought to be various grades as regards these clerkships, the same as there were various grades in other departments of the public service, so that those holding them might look forward to promotion, according to their merits and length of service. He would be better pleased if the hon. member for the Swan would for the present withdraw his resolution, and allow the House to deal with the claims of these officers severally, when the information in the Blue Book was furnished, and the Estimates come to be considered.

MR. RANDELL thought York, Newcastle, and Vasse might be struck out of the list. There could not be much work for a Magistrate's clerk at those places.

MR. CAREY stoutly defended the claims of the clerk at the Vasse.

MR. SHENTON suggested a compromise—£25 to the clerks at Geraldton, Perth, Fremantle, Bunbury, and the North district, and £15 to the clerks at York, Vasse, and Newcastle.

MR. CROWTHER thought they could not do better than let the motion stand as it is. No doubt there was a little more work to be done in some of these places than in others, but it was absurd to suppose that, so far as the work went, any of these clerks were entitled to an

additional salary. He had never yet heard of any claims made upon an insurance office in consequence of the premature death of a Magistrate's clerk, from overwork. These men were entitled to consideration, not because of the laborious duties cast upon them, but because of the zeal and integrity they displayed in the performance of what little work they had to do. There was nothing like calling a spade a spade in these matters, and, as for talking about hard-worked Government clerks, it was all nonsense. A hardworking man would do all their week's work in two or three days, and what claim they had in respect of any increase of salary was simply owing to the zealous manner in which they performed what little work they had to do.

The motion was then put and carried.

VOLUNTEER BILL.

The House then went into committee for the further consideration of this Bill.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the following new clause be added to the Bill, to stand as clause 23:—"In the event of any member of the Volunteer Force being killed or wounded in actual service, the Governor shall, within fourteen days after the commencement of the next Session of Council, cause to be laid upon the Table of the said Council a return of the name and rank of every such person so killed or wounded, and recommend the said Council to grant such pension or gratuity to such wounded person, or to the widow or family of such person so killed as aforesaid, as the Governor shall think fit." It would be in the recollection of the committee that the original clause was struck out, on the recommendation of the select committee to whom the Bill had been referred, and the new clause was in accordance with the select committee's recommendations.

MR. BROWN said he had already expressed a strong objection to this new clause, as it took away from the Legislature the right to define the scale of allowance which ought to be made. He was not prepared at all to offer any amendment upon this new clause, for, in

his opinion, it was incapable of any amendment that would satisfy him. If it be in order, what he would propose would be that the clause be withdrawn altogether, or let the sense of the committee be taken with regard to it as it stood. If approved of, well and good; if rejected, he should like to move the insertion of the clause which had already been struck out.

POINT OF ORDER.

MR. STEERE said the hon. member could not do that. The clause having already been negatived could not be brought up again the same session.

MR. BROWN: It has been done.

MR. STEERE: It is contrary to all parliamentary precedent. The House has already expressed its opinion with reference to the clause, which was, that it be struck out.

THE COLONIAL SECRETARY (Hon. M. Fraser): No Bill which in substance is the same as a Bill already disposed of, can be brought in the same session, and surely what is right as regards a Bill as a whole must logically be right as to a clause of the Bill.

THE CHAIRMAN OF COMMITTEES said that no point upon which the House had expressed its judgment could be again brought forward in the same session; but it must be remembered that a committee was not the House, and the House had not yet had an opportunity of confirming the work of the committee in its dealings with this Bill. That opportunity would be afforded it, when the report of the committee was submitted for adoption. Upon this principle it was laid down "that in every stage of a Bill, every part of the Bill is open to amendment, either for insertion or omission, whether the same amendment had been, in a former stage, accepted or rejected."

DEBATE RESUMED.

MR. RANDELL said he thought it would be much better to have the scale of allowance defined, and not left to the whim of the Legislature, or the Governor, or Government, of the day, so that people might know what they might expect to get. At any rate, he thought

some provision ought to be made to enable the Governor to make temporary arrangements for the payment of some allowance, before the Legislature met in session; and, to that end, he would move that the following words be added to the clause: "Provided, however, that the Governor may, in the event of the Legislative Council not being in Session, make such temporary provision as under the circumstances which may arise he may think fit."

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said that when they were in committee on the original clause, he was bound to say that some things were said with reference to it which struck him as being very reasonable. But the clause was undoubtedly open to objection. It provided that a volunteer wounded or killed while "on ordinary service" would be entitled to an allowance or his widow to a pension. To leave that in the Act would have been to leave the thing in a very unsatisfactory state, for if a volunteer simply marching out with his corps on any ordinary occasion, or practising with the rifle at the butts, met with an accident, although caused by his own fault—although he had contributed to his accident or his death—he would have been entitled to a gratuity or his widow to a pension, under the original clause. That, it seemed to him, was neither a desirable nor reasonable provision to include in a Bill like this. There was this further objection to the original clause as it stood—it provided only for one fixed scale of allowance or pension, apart from the merits of any particular case. When a volunteer happened to be killed, on actual service, he might be a rich man, and have left his widow well off; or he might be a very poor man, leaving a large family, entirely unprovided for. Yet under the old clause the allowance in each case would have been the same. Circumstances of men varied, and he thought it was well to take that fact into consideration. The new clause enabled the Governor and the Legislature to say what shall be a proper allowance in each case, according to circumstances. He saw no objection to the proviso being added to the clause, so that, in the event of the Council not being in session, the Governor might himself give some

temporary assistance until the Legislature met.

The amendment submitted by Mr. RANDELL was agreed to.

The new clause, as amended, was then put and passed.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the following new clause (to stand as clause 39) be added to the Bill: "The Acts mentioned in Schedule C hereto are hereby repealed, but this repeal shall not affect the validity of anything done or suffered under the provisions of the said Acts, or of either of them, before the commencement of this Act."

Question—put and passed.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) also moved that the following new clause be added to the Bill, to stand as clause 40:—"This Act shall commence and take effect on the first day of January, 1884." It seemed desirable that before the Act came into force, the Volunteer corps should have an opportunity of considering, and communicating with the Government, as to what regulations it might be desirable to establish, for the purpose of carrying out the provisions of the Act.

The new clause was agreed to.

Preamble and title agreed to.

Bill reported.

MESSAGES (Nos. 10 AND 14): IMMIGRATION.

The order of the day for the consideration of these Messages being read,

THE COLONIAL SECRETARY (Hon. M. Fraser) moved that the order be discharged, and that the Messages be referred to a select committee; such committee to consist of Mr. Steere, Mr. Marmion, Mr. McRae, Mr. Venn, Mr. Brown, and, by leave, Mr. Randell, Mr. Grant, and the mover.

Motion agreed to.

PEARL SHELL FISHERIES BILL.

This Bill passed through committee, *sub silentio*.

EXEMPTION OF JUSTICES FROM JURIES BILL.

ADJOURNED DEBATE.

MR. SHENTON, who moved the adjournment of the debate upon the motion

for the second reading of this Bill, said he did so principally in order to ascertain the number of gentlemen on the commission of the peace in the Perth district, who were liable to serve on juries, and he found—excluding those who were in the Government service and Volunteer officers—there were only ten justices who were liable to be called to serve on juries at the Supreme Court, including the residents at Fremantle and Guildford. Under these circumstances, he thought the better plan would be to exempt the whole body, rather than place the Governor in the invidious position of saying who should be exempted and who should not, thereby possibly creating a feeling of soreness between the magistracy and the head of the Government.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said, when the debate on this Bill took place the other day, a little misconception prevailed as to the exact state of the law on the subject. By the original Act, of 1871, certain persons were exempted from serving on juries, but justices of the peace were not amongst them; therefore it was clear that, at that time, the feeling of the Legislature was that justices should not be exempted, the Legislature probably regarding them as a very desirable class of persons to serve on juries. He fully agreed with that. From the knowledge they possessed of the practice of the law, they were about the most useful body of men we could possibly have to serve upon juries. Then came the Act of 1878, which provided that justices in quarter sessions districts should be exempted, for the very obvious reason that in those districts the justices with the district magistrate constituted the court, and it was considered inadvisable that some of them should be sitting on the bench while others were sitting on the jury. But, as regards the other districts of the colony, where there were no courts of quarter sessions, justices were not exempted by the new Act, and so the law stood up to the present day. The Government, however, were now led to think that there might be cases of individual claims to be exempted, and that it would be as well to give the Governor power to deal with such cases as they might arise, and hence the present

Bill. The Government, however, had no feeling in the matter, one way or the other. With regard to the jurisdiction which this Act would embrace, it would only cover the district of Perth—that is, Perth and a radius of 35 miles in any direction around it, that being the prescribed area within which jurors are now liable to be summoned to serve. It did not apply to districts beyond that radius. The hon. member opposite (Mr. Shenton) stated that, according to his information, there were only ten justices whom this Act would touch. His own information varied from that of the hon. member, for he was informed by the Registrar of the Supreme Court that there were at the present moment thirty-five justices on the roll who were liable to serve as jurors, but that of that number seventeen were from some cause or other exempted, leaving eighteen still liable to be called upon at any time to serve in that capacity. The Registrar told him this—and he was sure he would have no objection to his mentioning it—that these persons are among the best men he can get to serve on juries and that he would be very sorry if the Court were to be deprived of their services, that they were men of experience and intelligence, and—without in any way desiring or intending to draw any invidious distinction between them and jurors in general—that it was a very important and a very desirable thing to have one or two men on a jury who could see a little further than the rest, and who could lead the other ten men to a right view of the case. He (the Attorney General) would himself be sorry to lose the services of these gentlemen, particularly in special jury cases, and if their services were lost to the Court, the special jury list would certainly be injured very much, as it was a comparatively small list, and those on it had to deal with the heaviest and most important actions. He trusted the House would see that it would be very undesirable to lose the services of these gentlemen; at the same time, if the Council thought there should be no exemption at all, and that the law should stand as it is, the Government had no wish to press the Bill.

THE COLONIAL SECRETARY (Hon. M. Fraser) thought, regard being had to what appeared to be the feeling of the

House on the subject, the best course to pursue would be to adjourn the debate *sine die*.

Debate adjourned accordingly.

The House adjourned at four o'clock, p.m.

LEGISLATIVE COUNCIL,

Friday, 10th August, 1883.

Native Prisoners for Rottneest—Telegraph Line between Roebourne and Kimberley—Expenditure on Government House, Perth—Width of Tires Bill, and the Roads Boards—Native Aboriginal Offenders Bill: in committee—High School, Perth, Mortgage Bill: second reading—Pearl Shell Fisheries Bill: third reading—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

NATIVE PRISONERS FOR ROTTNEEST.

MR. BROWN, without notice, asked the Colonial Secretary whether the Government were aware that something like twenty-seven native prisoners had just arrived at Geraldton from the North, under sentences of imprisonment, and whether it was the intention of the Government to bring on these prisoners, in the usual course, and send them to Rottneest, in view of the already crowded state of the native prison on that island? He asked the question now, without notice, because he understood the *Rob Roy* would be leaving Geraldton for Fremantle next day, and probably, unless other arrangements were made, these natives would be brought down by that steamer. He did not know whether the Governor had the power to have these prisoners detained at Geraldton instead of having them sent on to Rottneest; at any rate, the question of disposing of so large a number of native offenders elsewhere than at Rottneest was one which he thought was well

worthy of consideration, in the face of the Colonial Surgeon's report on the condition of sick natives on the island. Dr. Waylen said: "The prison is, I consider, far too small for the number of men at present confined in it. There is accommodation for 106 at the most; at the outbreak of the epidemic there were 170, and in May last 179. With this crowded state, the cold wet weather, and the very infectious character of the malady, added to the nature of these aboriginals to despond and rapidly fail in vitality, the number of deaths which have taken place can hardly be wondered at." He thought this was a very serious matter, and, had there been time, he should have felt it his duty to have communicated personally with the Governor on the subject of making some provision for the disposal of the twenty-seven additional natives now on their way from the North.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the Government were aware of the arrival at Geraldton of a batch of native prisoners, and, if the hon. member would give notice of his question, he should be prepared to answer the hon. member.

TELEGRAPH LINE BETWEEN ROEBOURNE AND KIMBERLEY.

MR. GRANT, in accordance with notice, asked the Colonial Secretary, "If the desirability of constructing a telegraph line between Roebourne and Kimberley was under the consideration of the Government?" He asked the question because it appeared to him highly desirable that Kimberley should be placed in telegraphic communication with this part of the colony. It seemed to him it would be hardly possible for the Government to manage a district so far away from head quarters, unless there were some means of communication.

THE COLONIAL SECRETARY (Hon. M. Fraser) said no doubt the extension of the telegraph line about to be constructed between Northampton and Roebourne was a question which, sooner or later, must occupy the attention of the Government, and probably of the Council, but the Government was not prepared at this date with any proposals in the matter.