

LEGISLATIVE COUNCIL,

Friday, 8th July, 1887.

Prisoners worked in chains—Payment for overtime to officials in Colonial Secretary's and Treasury Departments—Water Supply for Shipping at Geraldton—Mail Service from Champion Bay to Abrolhos Islands—Message (No. 9): Resolutions re adoption of Responsible Government—Proposals of W. A. Land Co. re Completion of their Railway before Contract time—Copyright Register Bill: in committee—Gold Duty Bill: in committee—Small Debts Bill: second reading—Additional Representation of the Kimberley District: adjourned debate—Inquiries into Wrecks Bill: second reading—Bunbury Railway Bill: second reading—Adjournment.

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

PRAYERS.

WORKING PRISONERS IN CHAINS.

MR. HENSMAN, in accordance with notice, asked the Colonial Secretary:—

1. Whether any prisoners have worked in chains on the roads, or on any public works outside the precincts of the gaols in this Colony, during the last ten years.

2. If so, when and where, and how many prisoners were put to work in chains during that period, and by whose order or authority were they so put to work.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) replied: I am informed by the Inspector of Prisons that no European prisoners have been worked in chains outside the gaols of the Colony during the period mentioned. It has been the practice to attach some of the native prisoners at Roebourne by a light chain to the wheelbarrows they use in road-making; these prisoners would otherwise escape, and could not be employed on the roads. I am unable to trace the order or authority for this practice, which dates from some time back.

PAYMENT FOR OVERTIME IN COLONIAL SECRETARY'S AND TREASURY DEPARTMENTS.

MR. SHOLL, in accordance with notice, asked the Colonial Secretary:—

1. Whether officials in the Colonial Secretary's and Treasury Departments receive pay for overtime?

2. If so, out of which vote are such payments made, and what is the total

amount so paid from the 30th June, 1886, to 1st July, 1887?

3. Have similar applications been made from officials in other departments, and refused?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) replied as follows:—

1. & 2. No officer in the Colonial Secretary's Department receives pay for overtime. The Chief Clerk in the Treasury received in November last a gratuity of £10 for compiling books to be kept by all subordinate officers of the Treasury throughout the colony. This was paid from "Incidental—Miscellaneous."

3. An application from the Accountant in the Lands Office for a gratuity of £25, on account of work performed out of office hours in connection with the receipt of land rents and the preparation of the returns of unpaid leases and licenses, published in the *Government Gazette*, was received, but disallowed.

MR. SHOLL: Then I understand there are no amounts paid for overtime?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser): I have answered the hon. member very plainly.

MR. SHOLL expressed himself as dissatisfied with the answer, and said he would bring the matter before the House in another form.

WATER SUPPLY FOR SHIPPING AT GERALDTON.

MR. KEANE, in accordance with notice, moved that an humble address be presented to His Excellency the Governor, praying that he will be pleased to place on the Supplementary Estimates for current year a sum sufficient to provide for a water supply for the shipping at the port of Geraldton. The hon. member pointed out that at the present time the only means of supplying the shipping with water was from a well, by the aid of a hand pump, which necessitated a great deal of labor and waste of time. When hon. members came to bear in mind the increase in the amount of shipping at that port, he thought all would acknowledge that it was about time this very primitive mode of providing water should be superseded by something a little more scientific, and also more calculated to meet present

requirements. He would remind the House that this would be a reproductive work. A small rate would be charged for the water supplied to the shipping, which would yield sufficient revenue not only to defray maintenance expenses but also the interest on the money invested. If considered necessary, he would suggest that the money might be made a charge on the next loan. He thought the Director of Public Works would agree with him that the work could be accomplished for £200 or £250.

Mr. MARMION thought it would be very desirable that such facilities should be given to an important port like Geraldton, if they could be provided at a reasonable cost. Some years ago similar facilities were afforded to the port of Fremantle; and they had proved a financial success, while at the same time removing a constant source of complaint from the shipping people. He could see no reason why the same facilities should not be afforded to the port of Geraldton, where he had no doubt it would prove an equal success.

Mr. SHENTON thought that, as a rule, the money expended in providing a convenient water supply for shipping proved a good investment. Great inconvenience was experienced at Geraldton at the present time owing to the very primitive nature of the contrivance upon which the shipping had to rely; and he knew that several vessels had been obliged to leave without water. He thought the House should provide the money.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) saw no reason whatever why this work should not be taken in hand. It was too late now to place it on the Supplementary Estimates; but he would have the necessary information as to the expense, and best means of doing the thing, prepared, and laid on the table of the House in time for next year's Estimates.

MAIL COMMUNICATION WITH THE ABROLHOS.

Mr. KEANE, in accordance with notice, moved that an humble address be presented to His Excellency the Governor, praying that he would be pleased to place on the Supplementary Estimates a sum sufficient to provide for a monthly

mail between Champion Bay and the Abrolhos Islands. The hon. member said this was another small matter in itself, but, at the same time, it was of considerable importance to the parties who had asked him to bring it forward. Some little time ago the lessees of these islands made an application to the Government to establish this mail service, and the answer was that the Government appreciated the enterprise of the company and wished them every success. That was all the satisfaction they got. He thought when they came to consider the amount of money which these islands brought to the revenue, and the small return which the lessees asked for, the House would agree that their request was a very modest one. He found that the revenue returned to the colony from these islands, from last December, amounted within a few pounds to £2,000—a return which he thought deserved some little acknowledgment on the part of the Government. All the company asked for was that they should have some regular means of communication between the mainland and the islands, during six months of the year, by a boat going across once a month; chiefly in order that ships' papers, etc., should be brought over, thus saving the necessity of vessels going to Geraldton. He thought this service might be carried out at a very small expense. Those who took the contract would be able to make a very good thing by trading with the islands. It was not contemplated that the service should be a permanent thing, and the Government could put an end to the contract when it pleased. He thought the House might fairly vote a sum of £120 a year to provide the facilities asked for.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he noticed in the first place that the hon. member had asked that a sum should be placed on the Supplementary Estimates. It was very unusual to provide for such services upon the Supplementary Estimates. But, apart from that, the House should consider the nature of the application. It was an application by a private firm for a mail boat to convey their mails from Champion Bay to their own island, or, rather, an island which they held under lease from the Government. He believed the company were carrying on their opera-

tions very successfully, and they must have been aware when they entered upon their enterprise that there existed no mail communication. The Government might as well be asked to provide a conveyance for them to obtain their supplies or their stores; or one of our timber companies might with equal reason make a requisition for a special mail service to their station, at the cost of the State. If the House once admitted the principle of granting such a concession, where were they going to stop?

MR. SCOTT said it appeared to him it was not a matter of whether the firm in question was doing well or doing badly; it was a question of how many inhabitants there were on the island whom this mail service would supply. If it would serve a good many people, he failed to see why these people were not as much entitled to postal communication as if they were on the mainland. To that extent, the motion had his sympathy.

MR. McRAE said the object in view was not to serve a private firm but the shipping, which was very considerable. He supposed that last season a dozen vessels called at these islands, and took away a thousand tons of cargo, yielding a considerable amount of revenue in the shape of royalty.

MR. SHENTON thought it was rather unreasonable to ask the Legislative Council to vote funds to provide a private firm with a mail service. He thought the company should provide its own mail service.

THE ATTORNEY GENERAL (Hon. C. N. Warton) thought the hon. member who had moved this address might be content with having scored one success that evening. The hon. member had already carried the House with him in his desire to provide the shipping at Champion Bay with improved facilities for a water supply; and he thought when an hon. member brought forward two motions, the same evening, for votes of public money, he ought to be thankful if he carried one of them; and he thought the most graceful recognition of the liberality of the House which the hon. member for Geraldton could show was to withdraw the present motion. If one hon. member could put forward a claim for a mail service to a place where a dozen vessels at the utmost put in, he thought

the pearling grounds might put forward a much stronger claim for a mail service. Even if they had the money to throw away in providing a monthly mail for these parties, the result would be that they should be receiving similar applications from all quarters. It was just a question of adding to the income of a private firm, by reducing the firm's expenditure.

MR. KEANE said there were a great number of people employed by this firm, to whom the proposed mail service would be a boon. At the same time, seeing that the feeling of the House was against him, he would, with leave, withdraw his motion, rather than have it negatived.

Leave given, and motion withdrawn.

MESSAGE (No. 9): RESPONSIBLE GOVERNMENT.

THE SPEAKER acknowledged the receipt of the following Message from His Excellency the Governor:

"The Governor has the honor to acknowledge the receipt of Address No. 5, of the 6th instant, in which it is requested that steps may be taken to give effect to the wishes of the Legislative Council as expressed in a Resolution affirming that the time has arrived when the Executive should be made responsible to the Legislature of the Colony, and as expressed in a further Resolution embodying the opinion of Your Honorable House that Western Australia should remain one and undivided under the new Constitution.

"2. The Governor will transmit these Resolutions to the Right Honorable the Secretary of State for the Colonies by the outgoing mail, with a request that the subject may be considered, and the views of Her Majesty's Government communicated at an early date.

"Government House, Perth, 8th July, 1887."

W.A. LAND COMPANY'S PROPOSALS *re* COMPLETION OF BEVERLEY-ALBANY RAILWAY.

On the order of the day for the resumption of the debate upon the motion introduced by the Commissioner of Railways, submitting certain proposals made by the W.A. Land Company *re* the completion of the Beverley-Albany railway before contract time (p. 46, *ante*).

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) informed the House that, as the Managing Director of the company had written to the Government withdrawing the proposals on which the motion had been based, he was not prepared to proceed with it, and, by leave of the House, he would withdraw it.

Motion, by leave, withdrawn.

COPYRIGHT REGISTER BILL.

The House went into committee for the consideration of this bill.

Clause 1—A Copyright Register to be established in this colony :

MR. HENSMAN asked the Attorney General whether there was any law of copyright existing in the colony at the present time, because, unless there was, of course it would be rather premature to provide machinery for the registration of copyright.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said that by the 8th section of the Imperial Act (the International Copyright Act, 1886)—an Act representing the result of the deliberations of the Berne Congress—the provisions of that Act extended to the British possessions; and, as this was a British possession, the Act extended to this colony. The Act extended to British possessions providing a Copyright Register be established in such a possession; and hence the necessity and the object of the present bill, so as to enable this colony to participate in the advantages and privileges of the International Copyright Act. The bill was virtually a copy of the registration clauses of the Imperial Act, with local adaptations.

MR. HENSMAN called attention to the fact that copyright was purely a creation of the statute law; and he knew there was no local Copyright Act in force here; nor was there any express enactment here adopting the Imperial Act. It seemed to him that all the 8th section of the Imperial Act did was to provide that any works produced here—a British possession—might be registered in England, and that it did not establish any law of copyright in the colony.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said there had been sent out here by the Secretary of State a

circular on the subject, which invited the attention of the Government to the 8th section of the Imperial Copyright Act, and from which it appeared that the official interpretation put upon the Act was that its provisions extended to such colonies as passed such a bill as this. If the hon. and learned gentleman did not think that the 8th section of the Imperial Act did establish a copyright law in the colony, and if the hon. and learned gentleman would himself bring in a Copyright Bill he should be happy to assist his hon. and learned friend in passing it into law. For his own part he was satisfied with the official interpretation put upon the clause. In any case no harm could arise from the passing of the present bill, which simply provided for registration.

MR. HENSMAN said the more he looked at the Imperial Act the more he was convinced that there was no Copyright Act in force in this colony. The Imperial Act was an International Act, and, *prima facie*, it was hardly likely it would establish copyright law in colonies. He failed to see the necessity of passing a Copyright Registration Act until we had a copyright law. The bill no doubt was perfectly harmless; and to him it appeared it would be perfectly useless, until there was a copyright law in the colony.

THE ATTORNEY GENERAL (Hon. C. N. Warton) was afraid if we did not pass a measure of this kind we should be shutting ourselves out of the pale of civilisation, and be regarded as a colony that deliberately chose to remain in absolute literary darkness, as having refused to share in the benefits of the International Congress, when those benefits were offered to us. Why should we deliberately shut ourselves out from the advantages enjoyed by that literary league?

MR. PARKER said he had not had an opportunity of reading the Imperial Copyright Act, but, after hearing the 8th section of it read, he was inclined to agree with the hon. and learned member for the Greenough that it did not establish a copyright law here, and that it was rather intended to give the people of this colony the benefit of the Imperial Act as regarded any works produced here. He moved that progress be reported, and leave asked to sit again.

MR. RANDELL said if the present bill would be effectual after the passing of a Copyright Act—should it be found necessary to do so at a subsequent stage—he thought they might now pass the bill, and to that extent at any rate they would be doing something towards attaining the object in view, even if it only went so far as to protect the works of Western Australian authors, in England.

MR. MARMION said the position of affairs seemed to him to be this: he thought the hon. and learned member for Greenough, the hon. and learned member for Perth, and the hon. and learned Attorney General ought to put their three learned heads together, and endeavor to satisfy each other that there was a copyright law established in the colony. Should they find that there was, no time would have been lost by the passing of the present bill,—or even if it should be agreed that it was necessary to introduce a Copyright Act in order to give force and validity to the present measure.

THE COMMISSIONER OF TITLES (Mr. J. C. H. James) said it appeared to him that if they were all agreed that there really was no copyright law in existence in the colony, it would be a ridiculous thing for them to frame and pass a measure for the registration of copyright. As to the precise bearing of the Imperial Act, he confessed it appeared to him in its scope to be more in the nature of a mutual protection society among nations, rather than an Act bringing within its embrace the colonies of the Empire. At all events he shared very much the doubt entertained on the subject by the hon. member for Greenough. At the same time, he thought hon. members would agree with him that it would not be idle to proceed with the bill, because, in the event of a copyright law being in existence here at present, or being brought into existence hereafter, we should then have completed the necessary measures for bringing us within the guild formed by the nations who were represented at the Berne Congress.

MR. HENSMAN said he would only add finally that his present impression was that the Imperial Copyright Act did not establish a copyright law in Western Australia; but it appeared to him that nothing could be lost by reporting progress at this stage, so that the legal

members of the House might have an opportunity of considering the question, and of consulting with the Attorney General on the subject.

The motion to report progress was agreed to, and the House resumed.

GOLD DUTY REPEAL BILL.

The House went into committee of the whole for the consideration of this bill, repealing the Act which imposed a duty on gold.

Clause 1—Repeal of the Act 50th Vic., No. 21:

Agreed to.

Clause 2—“That no proceedings be taken, or continued, for the recovery of any duty, forfeiture, or penalty imposed by the said Act:”

MR. PARKER objected to the words “or continued.” If a prosecution had been commenced he did not see why it should not be continued. If any person had been found offending against what was at present the law of the land, he failed to see why any proceedings that had been instituted against him should not be carried on. The effect of this clause as at present worded would be this: if proceedings had been commenced, they must be dropped at once, the instant this bill became law. In what position would the authorities find themselves in the event of a person being convicted, say at Derby or Wyndham, before the provisions of this bill became known at those places?

THE ATTORNEY GENERAL (Hon. C. N. Warton) said no doubt persons who offended against the law should be punished; but the fact was the Act of last year had been found to be an impracticable Act, and no proceedings were likely to be taken under it. So far, it had remained entirely inoperative, and at the present moment it was virtually a dead letter, and its enforcement would have a very deleterious effect. As to any advantage being taken of any proceedings which may possibly have been instituted before the present Act became known in our remote northern settlements, he was sure His Excellency the Governor would consider the propriety of remitting any punishment or penalty that may have been imposed.

MR. HENSMAN said, supposing a prosecution had been commenced under

the now existing law, what would be the position of the prosecutor as regards the expenses he had incurred? He thought it would be rather hard that he should have to pay the costs of the prosecution out of his own pocket, when the Crown itself had prevented him from carrying it on, and obtaining a conviction. He thought it was unique in the course of English legislation that proceedings commenced under the law of the land should be peremptorily discontinued. He should move, as an amendment, that the words "or continued" be struck out.

THE ATTORNEY GENERAL (Hon. C. N. Warton): I accept that amendment.

Amendment put and passed.

Clause, as amended, agreed to:

Clause 3.—"That whereas it is desirable for public reasons to ascertain the quantity of gold which is exported from this colony, all persons leaving the colony having in their possession crude or unmanufactured gold, or gold ore, or gold dust, or articles manufactured of gold found in or procured from the soil of this colony, shall declare at the Customs previous to exportation from this colony the weight and estimated value of all such crude or unmanufactured gold, gold ore, gold dust, and of all articles manufactured as aforesaid."

MR. MARMION objected to the words "articles manufactured of gold." He thought that it would be impracticable to carry out the provisions of the clause as regards articles of jewellery. This object was to ascertain the quantity of gold raised on the goldfields, and not to harass people by compelling them to declare at the Customs the value of every piece of jewellery they had in their possession made out of colonial gold. He thought all they had in view might be accomplished by requiring all diggers employed on the goldfields to send a periodical return to the Warden of the amount of gold raised by them, with a penalty attached for neglecting to do so or for making a false declaration. He considered it would be very desirable to report progress, in order to see whether some such provision as that might not be incorporated in the bill.

MR. PARKER said if the bill came into operation the moment it was assented to, somebody might be convicted between

the time of the Act becoming law and the news of the repeal of last year's Act reaching the Kimberley District. A man might be convicted and fined, and, if he did not pay his fine, be imprisoned; and there might be actions for false imprisonment arising out of it. He would suggest that a clause be introduced, postponing the coming into operation of the Act, for two or three months after it was assented to. As he was at present advised, it was his intention to oppose both the 3rd and 4th clauses of the bill, for he failed to see how they were to be made operative. They would virtually create a new crime, that of buying an article of jewellery manufactured of Kimberley gold. He hoped the Attorney General would consider this question during the adjournment.

Progress reported, and leave obtained to sit again.

SMALL DEBTS BILL.

THE ATTORNEY GENERAL (Hon. C. N. Warton), in moving the second reading of a bill to amend "The Small Debts Ordinance, 1863," said the first clause of the bill related to a grievance which, he believed, had been felt very much in this colony, particularly by the inhabitants of Perth and Fremantle. He noticed, some time ago, considerable correspondence in the local papers on the same subject, and there were many and bitter complaints from creditors that there were a number of debtors who evaded payment of their just debts by reason of the fact that the very smallest sum for which a creditor could go to the Small Debts Court, in the shape of fees, was 13s. 6d. It was quite clear that there were many dishonest people who could get rid of a small debt, say of 10s. or 12s., if the creditor had to pay down an initial fee of 13s. 6d., and then run the chance of recovering his money. Ten or twelve shillings, it might be said, was not much to lose: but when a small tradesman came to have thirty or forty people owing him small sums it became a very serious matter for him. He had, therefore, in the present bill done what he could to diminish that source of grievance. He had been guided in the matter a good deal by a gentleman who ought to know something about these Small Debts Courts and their working.

The fees were at present divided into two classes,—the magistrate's and the clerk's fees forming one class, and the bailiff's fee forming the other class. He did not propose to interfere with the latter, which formed part of the salary of the officer of the court; but he proposed a considerable reduction in respect of the magistrate's and clerk's fees, and to provide a graduated scale of fees, ranging from one shilling, when the sum sought to be recovered did not exceed 10s., and a fee of two shillings when the claim did not exceed £1, and so on, proportionately, up to a fee of 10s. when the sum sought to be recovered did not exceed £5,—which was the maximum provided for under the present bill. Roughly speaking, the fee would amount to about ten per cent. of the amount sought to be recovered. The reason why he had adopted the £5 limit was because when they came to pay a fee of 10s. in addition to the bailiff's fee they would arrive pretty nearly at the amount now chargeable in respect of any claim (13s. 6d.), which would still be the fee chargeable in respect of sums exceeding £5. He did not think there would be much loss to the revenue from the proposed reduction in the fees; on the contrary, he thought it would be in the true interests of the revenue if the public felt that they could get justice cheaply. He thought they should find the public flocking to their courts of justice, when they found they could get their claims adjudicated upon cheaply. He was not one of those who had an exaggerated respect for popular opinion; but, sometimes, popular opinion might be right; and when he saw popular opinion on this subject expressed in the papers, and saw that it was reasonable, he felt that the grievance complained of was one that ought to be remedied. He felt for those unhappy creditors who lost what was honestly due to them, because they could not afford to pay the heavy initial court-fees. The oldest principle of our law, wrapped up in that great Charter of our liberties, was that justice shall not be delayed nor sold to any man; and, although they could not yet carry out that principle in its entirety, the present bill was a step in that direction. The second clause of the bill, he was afraid, would not commend itself to his hon. friend, the member for Greenough. It

was a clause giving power to the magistrates of these Small Debts Courts to certify for costs in certain cases on a higher scale. The clause, he might say, was similar to one which he himself carried, in the face of considerable opposition, in the House of Commons. You may have as novel and difficult a point of law arising in respect of a sovereign as of a thousand pounds; and, he thought, in that case, it was only right that the practitioners of the law should have costs granted to them which were commensurate with the importance of the question involved. It would not be for the practitioner himself to decide whether an action involved any novel or difficult point of law, or that the question litigated was one of public importance or of general interest. That was left for the magistrate; and it was only when the magistrate certified to that effect that the higher costs would be given. There was no inconsistency, he submitted, between the first and second clauses of the bill. The first clause sought to cheapen justice for litigants, and the second clause sought to provide justice for the lawyers. The first clause looked after the public, and the second looked after the practitioners. He thought that was fair. He thought that House would wish to do justice to all, even to lawyers. He hoped his hon. and learned friend the member for Greenough would for once indulge in the luxury of supporting a bill brought in by himself (the Attorney General)—especially when he told the hon. and learned member that the second clause had already received the sanction of the Legislature in England.

MR. HENSMAN said it gave him much pleasure to say a word in support of the hon. and learned gentleman's bill. He agreed with him that it was most desirable that these fees should not be heavy; and he doubted, with him, whether the revenue would eventually suffer by the proposed reduction. He thought these Courts should be as free and open as they possibly could. With regard to the second clause, there again he agreed with the principle of the clause. He agreed with the hon. and learned gentleman that sometimes it was desirable to take a case into these inferior courts rather than into the superior courts; but the hon. gentleman would remember

that in England there was a power of appeal from the decision of the judge of the county court on all points of law where the matter in dispute was over £20; and he would ask him to consider whether in these Small Debts Courts in this colony, there should not be a right of appeal, especially when questions of importance or difficulty arose. He had himself received several suggestions of amendment in the bill, which he had not yet had time to consider, and he hoped the hon. gentleman would consent not to fix the Committee stage at too early a date.

The bill was then read a second time.

ADDITIONAL REPRESENTATION OF THE KIMBERLEY DISTRICT.

ADJOURNED DEBATE.

Mr. PARKER, in resuming the debate upon the motion submitted by Mr. Alexander Forrest, in favor of giving an additional member to the Kimberley District, said he had moved the adjournment of the debate until after the motion for the adoption of Responsible Government had been taken into consideration. He had done so, because it had struck him that if the House affirmed the desirability of having an entirely new Constitution, it would be obviously absurd to attempt to tinker up the present Constitution. The House having now affirmed, by a large majority, that we desire a new Constitution, it appeared to him that the best course for the hon. member for Kimberley to pursue was to withdraw his resolution in favor of amending the old Constitution. Even presuming they were to pass this resolution, he did not see how it could do any good. He thought His Excellency, in all probability, would tell them that he could hardly bring in a bill this session to carry out the hon. member's views. His Excellency had told them that he proposed, as soon as the Secretary of State announced the terms upon which the Imperial Government would grant this colony the right of self-government, to dissolve the present Council, and that the general election should take place immediately afterwards. Even if a bill were introduced and passed this session, giving Kimberley an additional member, it would be impossible for the bill to be sent home and receive the Royal sanction,

and for the approval of Her Majesty to be communicated back in time to enable two members to be returned for the Kimberley district at the general election, which now loomed in the near future. Under the circumstances, he trusted the hon. member would accept the suggestion he had made.

Mr. A. FORREST consenting, the motion was withdrawn.

INQUIRIES INTO WRECKS BILL.

THE ATTORNEY GENERAL (Hon. C. N. Warton), in moving the second reading of a bill to amend and extend "The Inquiries into Wrecks Ordinance, 1864," said the bill, an important one to the mercantile and shipping interests, naturally divided itself into three parts. Before, however, proceeding to explain the provisions of the bill, he should like to say a word as to its *raison d'être*. He always liked to give an account of the origin of a measure if he could; for he knew that hon. members were interested in the genesis of bills; and he would tell them how the present bill had arisen. The first part, the amending part, he might say, had arisen in this way. Although the first section of the Wrecks Ordinance, 1864—the Act which he now sought to amend—was a tremendously long one, and seemed to provide very fully for all that was necessary, in theory, yet in fact it did not so provide; and, recently, what happened at a neighboring port was this. A certain inquiry was taking place into the conduct of a certain ship or steamer, and, acting under the provisions of the existing law as expressed by that Ordinance, it was necessary for a justice of the peace as well as the Collector of Customs to make an inquiry into the circumstances attending the wreck of that vessel. Under the provisions of the Act it was necessary that the Collector and the justice together should draw up certain charges in order to carry out what was called the "investigation." But when it came to practical work, and it was found that if the Collector and the justice differed in opinion, it was difficult to say how or who was to draw up the charge. There arose a difference of opinion in the instance referred to; and he (the Attorney General) was asked to draw up the charge. He

refused to do so; it was not for him to draw up charges; and he told them they must refer to the machinery provided by the Act. Then the case broke down, one holding it was a gross case of negligence on the part of the ship's officer, and the other holding there had been no negligence at all. One of them obtained the opinion of a local maritime authority,—though he doubted whether, under the Act, they had a right to call in such assistance at the preliminary inquiry. However, in order to rectify this state of things, and to make the course of procedure perfectly clear, he had prepared the first two clauses of the present bill, one being the definition clause and the other the procedure clause. With regard to procedure, the first step or stage was called the "Inquiry;" the second step the "Accusation;" and the third step the "Investigation." The first stage was the preliminary inquiry contemplated by the existing Ordinance. The "Accusation" meant the formal case, setting forth the specific charges of incompetency or misconduct against a ship's officer; and the "Investigation" meant the formal investigation into the attending circumstances, as contemplated in the principal Act. Under the existing Ordinance it was extremely doubtful how far a justice acting in conjunction with the Collector of Customs had an equal voice with the Collector; therefore, he had taken pains to settle this question, definitely. He thought that in matters of such importance as the loss of life or of valuable property at sea, there should be no room for doubt. With regard to the preliminary stage, the inquiry, instead of saying, as the present Act did, "it shall be lawful" (which had a dubious meaning) he proposed to make the inquiry compulsory upon the officer of Customs. On such inquiry he had given the Collector of Customs precedence over the justice, whom he might call to his assistance. Under the existing Ordinance it was lawful for a justice to assist the Collector; but, in the event of a justice refusing to act, there was no provision empowering the Collector to require him to act. This had been remedied in the present bill, which provided that the officer of Customs may require and request the assistance of any justice of the peace for the purpose of such inquiry,

and any justice so required to act shall do so. He had also anticipated a contingency that may occur. Supposing that they both agreed that there was no case for an investigation, he had provided that all proceedings in the matter shall then cease and determine. He now came to the next stage,—as to the accusation. In the event of the Collector and the justice both agreeing that there was a case for investigation, the question arose which of them was to draw up the formal charge or accusation? He proposed that in the event of the Collector and his colleague agreeing that there was a case for investigation, it should be rendered incumbent upon the former, with or without the assistance of the latter, to draw up the charge. If the justice chose to assist him, well and good; if not, and having expressed his opinion that there was a case for investigation, the Collector would himself draw up the formal case. Then he had provided for a case in which a difference of opinion might arise between the Collector and the justice, as to whether there was a charge or not. This was the difficulty he had referred to as having recently occurred at Fremantle. In that case, should one of them be of opinion that there is a case for investigation, and should the other be of opinion that there is no case, the duty of drawing up the charge devolved upon the former—the one who was of opinion that there was ground for a charge. He thought it would now be seen that he had endeavored to provide for all contingencies. With regard to the final investigation, should it be necessary to call in the assistance of a nautical assessor, and there should be a difference of opinion between the Collector and the justice as to the person to be called in, it was now proposed that the Governor should appoint an assessor. He thought the next part of the clause was important. He did not think that under the existing Ordinance the court of inquiry had power to examine witnesses, on oath. They appeared to hold a very formal court, whether of inquiry or investigation; and his belief was, there was no provision whatever which, in either case, gave them power to examine any witness upon oath. He now proposed to empower them to do so, and to administer the necessary oaths. He had now done

with what he called the first part, the amending part, of the bill. The second part of the bill related to foreign ships, and provided for the holding of inquiries into the wrecks of such ships. It would be within the knowledge of hon. members that, a short time ago, a foreign vessel called the "Myra Flores" came here, and sustained or inflicted (he forgot now which) some injury; and it was found that she did not come within the law as it now existed. He thought it was very important indeed that we should have inquiries in the case of foreign ships, because a foreign ship might do as much damage to one of our own vessels as a British ship might. Or there might be a collision within our waters between two foreign ships, and it might be very desirable that the inquiry should take place here. Provision was made in the third clause of the bill for all these contingencies. He had been careful, however, to provide that it should only extend to the three mile limit, from the coast line, as regarded these foreign vessels. As they wished to be perfectly fair towards other countries, and to respect the comity of nations, it would be found that the bill also provided that, in the case of a collision or other injury occurring between one of our own ships and a foreign ship, the consul, vice-consul, or consular representative of the foreign state or country to which the latter belonged, should receive notice of the proposed holding of the investigation, and that he should have some *locus standi* thereat, the right to call witnesses, and to examine or cross-examine them. He hoped, as the colony progressed, and our shipping increased, to find every foreign country represented here by its consul or consular representative. He certainly thought that in such an important port as Fremantle, there should be a consul representing every nation with whom we are on terms of friendship. Provision was also made in the bill extending the provisions of the Act relating to the protection of wreckage to foreign vessels; and the appointment of the Collector of Customs as the Receiver of Wrecks was by the present bill made statutory. Although that officer was now recognised as the Receiver, his appointment was not a statutory one, whereas under the present bill it would be. With regard to the

third and last part of the bill, it consisted of several clauses most of which were in reality merely an adaptation of clauses contained in the great Mercantile Marine Act of the mother country. Having now shortly explained the provisions of the bill, which, as he had already said, was of considerable importance to the mercantile and shipping interests, it only remained for him now to move that the bill be read a second time.

Mr. HENSMAN said he had no intention to oppose the second reading; but he would suggest, as the bill was rather a long bill, and a bill dealing with an Act which was not very clear, that the hon. and learned gentleman in charge of it should not ask them to go into committee on the bill at a very early date. He understood the hon. gentleman to say that the first part of the bill arose through there having been some difference of opinion between the Collector of Customs and a justice who was acting with him. He would ask the hon. gentleman—if he might do so—not to interfere more than needful with old Acts, because of any particular cases of complaint he might hear. If he did so, he was afraid the hon. gentleman would find his hands full, and we should have a great many amending bills. With regard to the present bill, he was rather inclined to think, supposing the Collector and the justice could not agree as to whether there was a case for inquiry at all, there must be room for some very serious doubt. He rather thought it was very desirable that the two first persons who came to consider cases affecting the character of the officers of a ship should be required to agree, before a charge should be formulated. However, he had not been able to follow all the clauses of the bill, as it had only been recently laid on the table, and he had no desire to oppose the bill in any way.

The second reading was then agreed to.

BUNBURY RAILWAY BILL.

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright), in moving the second reading of a bill to authorise the construction of the Bunbury Railway, said the bill was a mere formal one, giv-

ing the necessary authorisation for the construction of the line.

Motion agreed to.

Bill read a second time.

The House adjourned at twenty minutes past ten o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 11th July, 1887.

As to the existence of Scab in Sheep—Alleged discovery of Gold in the Eastern Districts—Contracts and Agreements respecting Guano Islands—Mail service, Northampton to Nookwarra—Railway Servants Bill: first reading—Building Act Amendment Bill: first reading—Inspection of Stock crossing to Kimberley from South Australia—Message (No. 10): Forwarding papers and correspondence re establishment of a Federal Quarantine Station at or near Albany—Point of Procedure—Pearl Shell Fishery Regulation Acts Amendment Bill: second reading—Bunbury Railway Bill: in committee—Adjournment.

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

PRAYERS.

EXISTENCE OF SCAB IN SHEEP, AND ITS ERADICATION.

MR. VENN, in accordance with notice, asked the Colonial Secretary how long it was since scab had been known to exist in the colony; and what reason was there to believe that the disease had been eradicated?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said that, with every desire to give the hon. member and the House the fullest information, he had consulted the chairman of the Board of Advice under the Scab Act, with reference to the hon. member's question. He had been unable to consult the hon. member for York, who, probably, was better informed on the subject than any other member of the Board; but, from the information he had been able to gather, his reply was that scab had existed in the colony since the year 1843, and still

existed. Several districts, however, were now free from it, and had been so for some years, but there were other districts in which it still existed, and every effort was being made to eradicate it. Inspector Mills reported scab as being present in flocks on one station on the Murchison river in January last. These sheep had been dipped twice since, under that officer's supervision, and were finally released on May 17. This was the last instance reported of scab existing in the colony.

ALLEGED DISCOVERY OF GOLD IN THE EASTERN DISTRICTS.

MR. PARKER, with leave, without notice, asked the Colonial Secretary whether he had any information which he could furnish the House with, with reference to the reported discovery of gold in the Eastern districts of this colony? For some time past it had been rumored that the precious metal had been discovered, in small quantities, in that part of the country; and, if the hon. gentleman could give them any information on the subject he was sure it would be acceptable to the House and to the country at large.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said the hon. member having spoken to him on the subject outside, he had prepared himself with the information which he sought, and which he had much pleasure in giving him. Some while since, in the month of March last, some metallic substance was found by one Charles Glass, sen., about two feet from the surface, whilst digging a well at his place, about one hundred miles to the eastward of Newcastle. This specimen, which was a very small one—what miners called a "speck"—was sent down to the Government in May last, together with a small portion of the soil in which it was embedded. This was forwarded by him to a gentleman who took great interest in these matters, the Rev. Mr. Nicolay, at Fremantle. He refrained from expressing any opinion himself,—although he might say it was favorable to the specimen; but Mr. Nicolay pronounced it to be gold. Some correspondence had since taken place on the subject between Mr. Nicolay and Mr. Adam, the Resident Magistrate at