

same words should apply to minor lines. The Hon. the COLONIAL SECRETARY, the Hon. the ATTORNEY GENERAL, and the Hon. the SURVEYOR GENERAL contended for the principle involved in the Bill that the Government should have the power to declare what were "main" and what were "minor lines of road," while Messrs STEERE and BROWN maintained that such power should be vested in the local committees.

Amendment put, "That the same words should apply to minor lines," upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 10 |
| Noes ..... | 5  |

Majority for 5

| Ayes.                  | Noes.                |
|------------------------|----------------------|
| The Hon. F. P. Barlee  | Mr. Logue            |
| The Hon. R. J. Walcott | Mr. Brown            |
| The Hon. M. Fraser     | Mr. Moore            |
| Mr. Phillips           | Mr. Shenton          |
| Mr. Drummond           | Mr. Steere (Teller.) |
| Mr. Newman             |                      |
| Mr. Monger             |                      |
| Mr. Gull               |                      |
| Mr. Russell            |                      |
| The Speaker (Teller.)  |                      |

Amendment thus passed.

Clause 12—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved an amendment that the figure "15" in the fourth line of clause 12 be struck out, and the figures "10" inserted as the penalty for non-repair of gates.

Amendment put, upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 4  |
| Noes ..... | 11 |

Majority against 7

| Ayes.                  | Noes.                 |
|------------------------|-----------------------|
| The Hon. F. P. Barlee  | Mr. Phillips          |
| The Hon. R. J. Walcott | Mr. Logue             |
| The Hon. M. Fraser     | Mr. Brown             |
| Mr. Drummond           | Mr. Newman            |
| (Teller.)              | Mr. Moore             |
|                        | Mr. Monger            |
|                        | Mr. Gull              |
|                        | Mr. Russell           |
|                        | Mr. Shenton           |
|                        | Mr. Steere            |
|                        | The Speaker (Teller.) |

Amendment thus negatived.

Clause 14—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved an amendment, that the figures "10" in clause 14 be reduced to the figure "15", as the penalty for leaving gates open.

Amendment put, upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 5  |
| Noes ..... | 10 |

Majority against 5

| Ayes.                  | Noes.                 |
|------------------------|-----------------------|
| The Hon. F. P. Barlee  | Mr. Phillips          |
| The Hon. R. J. Walcott | Mr. Logue             |
| The Hon. M. Fraser     | Mr. Brown             |
| Mr. Drummond           | Mr. Moore             |
| Mr. Newman (Teller.)   | Mr. Monger            |
|                        | Mr. Gull              |
|                        | Mr. Russell           |
|                        | Mr. Shenton           |
|                        | Mr. Steere            |
|                        | The Speaker (Teller.) |

Amendment thus negatived.

Progress reported, and leave obtained to sit again.

## WILD HORSES AND CATTLE NUISANCE BILL.

In Committee.

The ATTORNEY GENERAL (Hon. R. J. Walcott) took the opportunity of rebutting the charge made against him that he had not drafted the Bill in accordance with the report. The discussion that ensued clearly showed that the hon. gentleman had done so faithfully and that the objections of one or two hon. members that he (the Attorney General) had not done so, were satisfactorily proven to be *nil ad rem*.

Progress reported, and leave obtained to sit again.

The Council adjourned at 10.30 p.m.

## LEGISLATIVE COUNCIL,

Wednesday, 11th January, 1871.

First Readings—Standing Orders Suspension—Tariff Bill: second reading: in committee: third reading—Appropriation Bill: second reading: in committee: third reading—Coasting Vessels and Cargo Boats Regulation Bill: first reading—Representation of the People Bill: select committee report—28th Victoria No. 4, Amendment Bill: first reading—Destruction of Native Dogs Bill: first reading—Scab-in-Sheep Ordinance Amendment Bill: first reading—Public Loan Bill: second reading: in committee—Mason, Bird, and Company—Representation of the People Bill: in committee: Speaker's ruling.

The SPEAKER took the Chair at 4 p.m.

PRAYERS.

## FIRST READINGS.

The following Bills were read a first time, on motions by the Colonial Secretary (Hon. F. P. Barlee): Tariff Bill and Appropriation Bill.

## STANDING ORDERS SUSPENSION.

The COLONIAL SECRETARY (Hon. F. P. Barlee), with leave, without notice, moved that the Standing Orders be suspended with a view to passing the Tariff Bill and the Appropriation Bill through the Council. He said it was desirable that these Bills should come into force at once.



Mr. STEERE said he would not offer any opposition to the Hon. the Colonial Secretary's motion, on the understanding that no advantage would be taken by the Government. As they were aware when the Appropriation Act was passed they were supreme, he did not think the Government would take any advantage; but on that understanding he would vote for it.

The COLONIAL SECRETARY (Hon. F. P. Barlee): There is not the slightest intention on the part of the Government to take advantage now or henceforth. The Government will act for the best advantage of the colony.

Question put and passed.

#### TARIFF BILL.

Second Reading and Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a second time.

The Bill was read a second time, and passed through Committee, without discussion.

Third Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a third time.

The Bill was read a third time and passed.

#### APPROPRIATION BILL.

Second Reading and Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a second time.

Mr. STEERE asked the Hon. the Colonial Secretary whether it was the intention of the Government to interfere with the status of the Colonial Chaplains by the present division of the ecclesiastical grant.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that the ecclesiastical grant had been placed under the head exclusive of establishments, on the understanding that faith should be kept with existing office holders of whatever denomination. He would be the last man to come forward with any such measure.

Mr. STEERE received the reply from the Hon. the Colonial Secretary which he expected. There was however an impression abroad and among the chaplains that there was some intention on the part of the Government to do so, and therefore they ought to have something on the records of the Council about the matter.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he had no desire that that should not be done, and entered on the Minutes, so that there could be no mistake on the point.

Mr. STEERE: The clergy are under the apprehension it might be done.

The COLONIAL SECRETARY (Hon. F. P. Barlee): They have not consulted the heads of the church.

Mr. STEERE begged pardon; they had consulted the head of the church, and he was under the same apprehension the chaplains were. He might state that officially.

The Bill was read a second time, and passed through Committee, without discussion.

Third Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a third time.

The Bill was read a third time and passed.

#### COASTING VESSELS AND CARGO BOATS REGULATION BILL.

First Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved for leave to bring in a Bill for the regulation of coasting vessels and cargo and other boats entering the ports and harbors of this colony.

The Bill was read a first time.

#### REPRESENTATION OF THE PEOPLE BILL.

Select Committee Report.

Mr. STEERE, in accordance with notice, moved that the report of the select committee on the Bill to amend the representation of the people be adopted. He said the Bill also related to the abolition of the property qualification of members. He agreed with certain parts of the Bill that had been brought forward by the Government on this subject. Under the old Act conditional pardon men according to the wording thereof could not vote, and he entirely agreed with the Bill before them giving that class that right. He could not, however, agree at all that there had been any public opinion expressed as to abolishing the property qualification of members. The elected members of the House represented public opinion, but the Hon. the Colonial Secretary did not represent public opinion. There has been no expression of public opinion outside or by members of the House that property qualification should be entirely abolished. There was however a feeling that the amount should be reduced, and he himself thought it ought to be reduced, and the committee had agreed to reduce the amount one-half of what it was before. If the original was passed it would enable almost any man to come and take a seat in the Council, and he thought that any man who came to the House should be a person of some property. He therefore hoped the Council would oppose the abolition of the property qualification. The second recommendation of the



committee—that no person convicted of treason, or felony, could be a member of the House—was one which was adopted in all the Australian colonies, and it was a provision that ought to be adopted here. The next recommendation was one which he feared would not meet with the approval of the members on the ministerial bench. The committee however considered that the independence of the Council would be endangered, were officers holding appointments under the Government permitted to be elected as members of that Council, and they therefore recommend "that no person holding any office of emolument under the Crown shall be capable of being elected a member, or of sitting and voting in the Legislative Council as an elected member." That was a provision which was adopted not only in all the Australian colonies, but in all countries having representative Councils. It was also against the laws of the land that such persons should become elected members, and he would give them proof. The hon. gentleman then read an extract from a Statute passed in the reign of Queen Anne, in support of his assertion. The law was most stringent in England, and no person can accept office under the Government and be a member of the House of Commons unless re-elected. That was a provision, as he had already said, which was adopted by all countries possessing Representative Institutions, and he would now refer to the Act passed in the last session; now according to that Act the Government has power to appoint six persons to that Council, three of whom should be holding office under the Crown, and that proviso was made so as not to give a preponderance to the Government in the Council. They must remember that that Act was not framed in the colony, but by Her Majesty's Ministers; and there was no doubt that they knew what they were doing. They did not wish to give the Government a preponderance in the Council, as they would have if any Government officers were allowed to take a seat in the Council as elected members at its next session. If that should be the case then that House would not be independent; at all events, not as independent as it ought to be. They have no doubt noticed the difficulties that have been thrown in their way and the obstacles which have been put forward by the Government in the elected members bringing forward measures in the House, but he would ask what would be the result if persons held seats in the House and being subject to the Government, as they would be? What would be the result? There could be but one opinion, that rather than such a conjunction should occur it would be better that they lived under the old despotic form of Government.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he had listened with much attention to the hon. member for Wellington,

but he did not think the hon. gentleman was serious in bringing forward the charges he had against the ministerial side of the House. As regards the charge of having thrown difficulties and obstacles in the way of the members of the House, he would most distinctly and emphatically deny that he had ever done anything of the kind. He came forward with measures in that House as deeply interested in the welfare and progress of the colony as any man in the House, and he could say that he had done his duty as faithfully and as conscientiously as any member of the Opposition. He certainly did oppose things when he saw they were wrong, and he would be wanting in duty did he not do so; and he would say further he would not say things were right when they were wrong, to please the hon. member for Wellington, but on the contrary, he stood there to do his duty as openly and as fearlessly as any member in the Council. As to the report of the committee, he certainly did not like it at all. Regarding the property qualification of members, he thought the committee were wrong in their recommendation, but it had been said that he did not express public opinion,—that he did not know the feeling of the public of the country on this question. It was certainly true he was not sent there by any particular district, yet he would say that he represented the colony at large. He contended that he represented the colony at large in that House, and he was in a better position to interpret the wishes and feelings of the colonists than any other member. He would tell the House that so soon as they lower the property qualification of members they came upon a very difficult question, and wherever they attempted to draw the line they would do an injustice to a large number of persons who would make good members of the House. The Government, in framing the Bill, saw the difficulty, and agreed to abolish the property qualification altogether. That is the course he would recommend to the House, and in so doing they would be following the precedent set them in England and in all the Australian colonies. The next clause in the report, prohibiting any person convicted of felony from holding a seat in the Council, he was not opposed to in principle. It was an exceedingly proper clause, but in his opinion it was put in the wrong place, and would undoubtedly prove disastrous to the Bill. When that clause came to be inserted in the Bill, it would be thrown out. In the Bill itself, you desire on the one hand to remove the disabilities which a certain class labor under by allowing them to vote, and on the other you deprive that class from sitting in the Council. That clause will be



the means of causing the Bill to be thrown out, and an act of common justice to a large class of persons be deferred another year. He agreed, as he had already said, with the principle of the clause, but it should form another Bill. If the Bill is thrown out in consequence, let the responsibility rest with the committee, and those who would vote for it. He certainly would not like to see any of the class in the House, as if there were any, it would be a question whether he for one would continue to hold a seat in the House. They, however, owed a duty to that class, and they should protect them and secure for them the exercise of the franchise, but he considered it was a great mistake to put any clause of the kind in the Bill. The hon. member for Wellington said he brought forward that clause because it was adopted in England and in the other Australian colonies. If it is desirable to follow precedents elsewhere,—if the hon. member was desirous of adopting precedents to be found elsewhere,—he said adopt the principles of a Government similar to that in this colony. He had given the whole matter considerable attention, and had looked closely at the mode of proceeding adopted in Tasmania, which was once similarly circumstanced as this colony, and they should, he would advise, wait and see what changes—as time went on—might appear necessary in the Constitution of the present Council. It had been said by the hon. member for Wellington that the election of Government officers to seats in the Council would affect its independence to a certain extent. How on earth, he would ask, could that be? The people of this colony possess certain powers to elect whom they pleased, and why should they be restricted in their selection? The Government on the last occasion did not appoint any members to seats in that House until the elections were all over,—and why was that done? Why, to give the public an opportunity of electing any public officer they pleased. If, he contended, any public officer had the confidence of the people, why, he would ask, should he not have a seat in that Council; and why, he would further ask, should not that officer be as independent a member as the hon. gentleman for Wellington is himself? If they had no faith in the Government—and the hon. gentleman had not much—the Government would not allow certain officers to take seats. On the other hand, it was desirable that other officers might be able to take seats. They had an instance in point in the case of a gentleman who came forward in a neighboring district, and he could not see why, if he had been elected, he could not

have had a seat in the House. But if they were to follow what is done elsewhere, they must go further, and do what is done in the mother country and all the Australian colonies. [The hon. gentleman here read an extract from *May*, to show that no contractor could take or retain his seat in the House of Commons under a penalty of £500.] Now, he asked, if they were to follow alone what was done elsewhere, why not follow in that? Contractors come under the influence of the Government,—they have been elsewhere,—Why not then adopt that clause here? He would not go into that question then, but he would ask the House to make such alterations as were essentially necessary and to go into those points hereafter. The hon. member for Wellington did not go far enough when he read the Statute of Queen Anne. It provides that officers can be re-elected; that fact altered the case considerably. The time, however, would arrive when all the provisions in England relative to these matters would have to be adopted. He was himself prepared to carry them one by one. As to the board and lodging franchise, he could not see how it was to be carried out. How could they find out whether a man paid £40 per annum? In this colony it could not be done at all. Having said so much why he did not concur in the report, he would here express his regret that the report of the committee was brought forward at all. The Bill, adopted by the Government, left all questionable matters for the present, and if the clause he objected to were added to the Bill, it would keep a certain class out of the franchise, to which they were entitled for at least a year or two.

Mr. STEERE stated that he would agree with the Hon. the Colonial Secretary if he could explain why Her Majesty was asked to assent, in the other colonies, to excluding persons having been guilty of felony from holding seats in the Assemblies, and Her Majesty could not be advised to do so here? If a clause allowing that class to have seats was passed, it would drive proper persons out of the Council. There would be no difficulty in carrying out the recommendations of the committee in their report. The Hon. the Colonial Secretary had urged them to pass the Bill presented by the Government, and bring in amendments hereafter. That course of proceeding might suit the Hon. the Colonial Secretary; but when the Government brought in a Bill with clauses that suited them, the House should take advantage of the Government, and insert therein what clauses they wanted.



Mr. DRUMMOND said that as one of the committee who assisted in drawing up the report, he would say a few words. He was entirely opposed to abolition of the property qualification of members. As there was no difficulty in getting persons to come forward when the qualification was £2,000; there would be no difficulty in getting members when it was reduced one-half. He fully supported the recommendation of the committee.

The ATTORNEY GENERAL (Hon. R. J. Walcott) contended that the Statute 6 Anne, which had been quoted by the hon. member for Wellington, had reference solely to the accumulation of offices in the House of Commons. He was in favor of the abolition of the property qualification of members, as it would be better to secure young men with brains who might not have the capital required, and who could learn to rule the country, when they secured the responsible form of Government.

Mr. NEWMAN was surprised at the counterblast of the Hon. the Colonial Secretary, who declared he did not oppose the Bill, yet objected to every line in the report of the committee. He was in favor of the property qualification for members. If it was reduced the House would be soon full of "stump orators." The colony was not sufficiently advanced to abolish the property qualification. He fully concurred in the suggestions contained in the report of the select committee.

Mr. GULL said that he was opposed to the abolition of the property qualification for members and supported the recommendations of the select committee.

Question put and passed.

#### 28th VICTORIA, No. 4, AMENDMENT BILL.

First Reading.

Mr. McKAIL, in accordance with notice, moved for leave to bring in a Bill to amend 28th Victoria No. 4.

The Bill was read a first time.

#### DESTRUCTION OF NATIVE DOGS BILL.

First Reading.

Mr. BUSSELL, in accordance with notice, moved for leave to bring in a Bill for the encouragement and protection of shepherds and others employed in the destruction of the native dog.

The Bill was read a first time.

#### SCAB-IN-SHEEP ORDINANCE AMENDMENT BILL.

First Reading.

Mr. DRUMMOND, in accordance with notice, moved for leave to bring in a Bill to

amend the eighth section of 30th Victoria No. 13, entitled "Scab-in-sheep Ordinance."

The Bill was read a first time.

#### PUBLIC LOAN BILL.

Second Reading.

Mr. STEERE moved that the Bill be now read a second time. He stated that the following were the works upon which the loan was to be expended:—An open-piled jetty at Fremantle, £20,000; extension Bunbury jetty, £500; sea wall Mandurah, £500; light house, Albany, £573; light house, Irwin, £250; railways from Fremantle towards the Eastern Districts of York, Northam, Toodyay, via Perth and Guildford, £76,753; total, £100,000.

A long discussion ensued on the Bill but nothing new was elicited. The necessity of a loan was affirmed, and the capability of the colony to pay both principal and interest was fully demonstrated.

The Bill was read a second time.

In Committee.

After some discussion in Committee, the Bill was agreed to, with amendments.

Sitting suspended until 8 p.m.

#### MASON, BIRD, AND COMPANY.

Mr. NEWMAN, with leave, without notice, moved that Messrs Mason, Bird, and Company's proposal in reference to a railway, at once be taken into consideration.

Question put and passed.

In Committee.

A long and interesting discussion ensued on the company's proposal, the Council, on the whole, considering the proposals of the company fair and reasonable and deserving of the attention and concurrence of the Government. The propositions were referred to a select committee consisting of the Speaker, Mr. Steere, Mr. Gull, Mr. Monger, Mr. Newman, Mr. Logue, and Mr. Brown.

#### REPRESENTATION OF THE PEOPLE BILL.

In Committee.

Clause 2—

Mr. STEERE moved an amendment that clause 2 be struck out.

Question put, "That the words proposed to be struck out, stand part of the Bill," upon which a division was called for, the result being as follows:—

|            |   |
|------------|---|
| Ayes ..... | 8 |
| Noes ..... | 8 |



| Ayes.                  | Noes.                |
|------------------------|----------------------|
| The Hon. F. P. Barlee  | Mr. Drummond         |
| The Hon. R. J. Walcott | Mr. Marmion          |
| The Hon. M. Fraser     | Mr. Newman           |
| Mr. Phillips           | Mr. Bussell          |
| Mr. Logue              | Mr. McKail           |
| Mr. Brown              | Mr. Shenton          |
| Mr. Gull               | Mr. Steere           |
| The Speaker (Teller.)  | Mr. Monger (Teller.) |

The voting being equal, the CHAIRMAN of COMMITTEES gave his casting vote with the Noes.

Question thus negatived.

Clause agreed to.

Clause 5—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved an amendment that clause 5 be struck out.

Amendment put, "That clause 5 be struck out," upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 6  |
| Noes ..... | 10 |

Majority against 4

| Ayes.                  | Noes.                |
|------------------------|----------------------|
| The Hon. F. P. Barlee  | Mr. Drummond         |
| The Hon. R. J. Walcott | Mr. Logue            |
| The Hon. M. Fraser     | Mr. Newman           |
| Mr. Phillips           | Mr. Monger           |
| Mr. Marmion            | Mr. Gull             |
| Mr. Brown (Teller.)    | Mr. Bussell          |
|                        | Mr. McKail           |
|                        | The Speaker          |
|                        | Mr. Shenton          |
|                        | Mr. Steere (Teller.) |

Amendment thus negatived.

Clause agreed to.

Clause 6—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved an amendment that clause 6 be struck out. He suggested in lieu a clause in vogue in the other colonies, to the effect that no person having a contract or who had an interest directly or indirectly therein could hold a seat in the Legislative Council, and objected to any member personally interested in the question before the House voting, and quoted *May* as an authority.

An angry discussion ensued.

Amendment put, "That clause 6 be struck out," upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 3  |
| Noes ..... | 13 |

Majority against 10

| Ayes.                        | Noes.                 |
|------------------------------|-----------------------|
| The Hon. F. P. Barlee        | Mr. Phillips          |
| The Hon. R. J. Walcott       | Mr. Drummond          |
| The Hon. M. Fraser (Teller.) | Mr. Marmion           |
|                              | Mr. Brown             |
|                              | Mr. Logue             |
|                              | Mr. Newman            |
|                              | Mr. Monger            |
|                              | Mr. Gull              |
|                              | Mr. Bussell           |
|                              | Mr. McKail            |
|                              | Mr. Shenton           |
|                              | Mr. Steere            |
|                              | The Speaker (Teller.) |

Amendment thus negatived.

Clause agreed to.

Clause 7—

Mr. STEERE moved an amendment that clause 7 be struck out.

Amendment put, "That clause 7 be struck out," upon which a division was called for, the result being as follows:—

|            |    |
|------------|----|
| Ayes ..... | 13 |
| Noes ..... | 3  |

Majority for 10

| Ayes.               | Noes.                  |
|---------------------|------------------------|
| Mr. Phillips        | The Hon. F. P. Barlee  |
| Mr. Drummond        | The Hon. R. J. Walcott |
| Mr. Marmion         | The Hon. M. Fraser     |
| Mr. Brown           | (Teller.)              |
| Mr. Newman          |                        |
| Mr. Monger          |                        |
| Mr. Gull            |                        |
| Mr. Bussell         |                        |
| Mr. McKail          |                        |
| The Speaker         |                        |
| Mr. Steere          |                        |
| Mr. Shenton         |                        |
| Mr. Logue (Teller.) |                        |

Amendment thus passed.

Clause not agreed to.

Bill reported, with amendments.

The CHAIRMAN reported to the Speaker that the following Point of Order had arisen in Committee: whether any member directly or indirectly engaged in any contract for or on account of the Public Service could vote on a division on clause 7, proposed by the Hon. the Colonial Secretary (Hon. F. P. Barlee), and which enacted that no person, directly or indirectly himself, or by any other person in trust for him, or for his own use and benefit, or on his account, undertaking, executing, holding, or enjoying in the whole or in part any contract or agreement for or on account of the Public Service, should be capable of being elected, or of sitting or voting as a member of the Legislative Council.

Speaker's Ruling.

The SPEAKER ruled that no member having a direct pecuniary interest in any question should be allowed to vote; and that, as no member had a direct pecuniary interest in the question before the Committee, the present rule did not apply.

The COLONIAL SECRETARY (Hon. F. P. Barlee) requested that his protest against the ruling of the Speaker be entered in the Minutes of the Council.

The Council adjourned at 10.30 p.m.