

## LEGISLATIVE COUNCIL,

Tuesday, 17th January, 1871.

Mason, Bird, and Company—Assent to Bills: Message from the Governor, No. 18—Public Loan Bill: Message from the Governor, No. 15—Representation of the People Bill: Message from the Governor, No. 16—Clarkson v. Sheriff: Message from the Governor, No. 17.

The SPEAKER took the Chair at 4 p.m.  
PRAYERS.

## MASON, BIRD, AND COMPANY.

Mr. STEERE, in accordance with notice, moved—

That the Legislative Council, having had under its consideration a proposal from Messrs. Mason, Bird, & Co., to construct a Railway from Fremantle to the Canning Ranges, for the purpose of exporting Timber, and also to erect saw mills and other works in connection therewith, consider such an arrangement would be advantageous to the colony, and it is recommended for the favorable consideration of His Excellency the Governor.

Mr. STEERE added to the above, "subject however to the alterations in the proposals as recommended by the select committee of this House."

The resolution, as amended, put and passed.

## ASSENT TO BILLS.

Message from the Governor—No. 18.

The SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

The Governor has, this seventeenth day of January, in the year of Our Lord 1871, and in the 34th year of Her Majesty's Reign, been pleased, in the name and on behalf of the Queen to assent to the following Acts; that is to say:—

"An Act to establish Local Boards for the conservation, improvement, and making of Roads in the several Districts of the Colony."

"An Act to facilitate the arrest of Absconding Debtors."

"An Act to alter and amend the 12th Section, and to repeal the 35th Section of the 'Police Ordinance, 1861,' and to enact another clause in lieu thereof."

"An Act to amend 'An Ordinance for protecting the Oyster Fisheries on the Coasts of this Colony.'"

Government House, Perth, 17th January, 1871.

## PUBLIC LOAN BILL.

Mr. STEERE, in accordance with notice, moved—

That in the event of the current revenue of the Colony being insufficient to provide for the interest and sinking fund for the contemplated loan of £100,000, as well as for the estimated expenditure for the year, the Council pledges itself to impose such further duties as may raise a revenue sufficient for such purposes.

The COLONIAL SECRETARY (Hon. F. P. Barlee) remarked that before the resolution proposed by the hon. member for Wellington was put to the House, having already given at some length his objections to such a course of action, he would for consistency sake ask to divide the House upon it. It was most unreasonable to pledge the House to a course of action which might be necessary at some future time. He would therefore simply give notice that he would oppose the motion and divide the House upon it.

The House then divided—Ayes, 9; Noes 7.

Question thus passed.

Message from the Governor—No. 15.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that His Excellency the Governor's Message No. 15, read yesterday, be taken into consideration.

In Committee.

Mr. STEERE said that since this Message had been received it had been considered by many members of the House and he wished to move the adoption of the following address in reply:—

*To His Excellency Frederick Aloysius Weld, Esquire, Governor and Commander-in-Chief in and over the Territory of Western Australia and its Dependencies, &c., &c., &c.*

MAY IT PLEASE YOUR EXCELLENCY:—

The Humble Address of the Legislative Council of Western Australia, Sheweth:

That the Council having taken into consideration Message No. 15 from Your Excellency, with reference to a Bill intituled "A Bill to authorize the raising of Money for certain Public Purposes," which was presented to your Excellency by Mr. Speaker, beg to reply as follows:—

The Council was at the time of the passing of the Bill and is now of opinion

that the provision making the interest and sinking fund a primary charge upon the revenue is the best security that can be given, and in making that provision the Council has but followed precedents given by other Colonies. The Council did not lose sight of the fact noticed by Your Excellency that the expenditure voted for this year is about equal to the estimated revenue, but at the same time it was seen that it would take at least twelve months to float the proposed loan; and for that reason it was thought advisable not to impose extra taxation before it was required. In passing the Bill it was the intention of the Council that, should the loan be assented to by Her Majesty's Secretary of State, the first items chargeable against the revenue in future should be the interest and sinking fund in question, and the Council conceives that the Bill gives irrevocable effect to that intention. Should the Revenue at the present tariff prove insufficient in future years to meet these charges, and the necessary current expenditure in addition, it is the desire of the Council that the expenditure, and not the charges referred to, may be met by extra taxation.

The relative urgency of the works proposed to be effected by means of the loan of £100,000 is, in the opinion of the Council, in accordance with the order in which those works are set down in the Bill, though the last work is not by any means the least in importance.

The Council is fully satisfied, from careful investigation, that a line of railway from Fremantle to a terminus at "The Lakes," equidistant from Toodyay and York, whether *via* Perth and Guildford, a distance on the whole of sixty miles, or direct a distance of forty-five miles, would be remunerative as soon as completed; and the Council in support of this view, need but refer Your Excellency to the large amount of produce even now brought down to market at great expense from the Eastern Districts, while the very large quantity of good agricultural land which such a line would be the means of bringing into cultivation, and the vast forests of "Jarrah" and other valuable woods through which the line would run, give certain promise of the ultimate lucrativeness of such a line of Railway. The Council would unhesitatingly have sought permission to raise a loan sufficient to construct the whole of the line referred to at once, laying down a

definite course for the line, and giving detailed statistics, proving indisputably the remunerative nature of the work, but for the following reasons:—First, because, by means of concessions to timber companies,—such have already been granted to one company, and have been asked for by Messrs. Mason, Bird, & Co.,—it was deemed probable that a portion of the line in question could be constructed by the time required, without recourse to a loan for that purpose; and it was thought better not to lay down a definite line for the railway at present, but to await the result of Messrs. Mason, Bird, and Company's proposal. Next, the tenor of the Earl of Kimberley's Despatch, referred to by Your Excellency, was such that the Council was imbued with a sense that the sanction of Her Majesty's Government to a loan would be swayed more by its amount than by the nature or urgency of the work to which it might be desired to devote it.

It still remains an open question with the Council whether, in the event of Messrs. Mason, Bird, and Company constructing a line of railway twenty-five miles from Fremantle towards the Eastern Districts along the route proposed by them, the £76,753 which the Council desires to raise should be devoted to extending that line to the terminus before named, or whether the sum should be expended in laying down a line of rail from Guildford to the same terminus, a distance of twenty-five miles, with a view to its ultimate extension to Fremantle, *via* Perth; but it is certain that the sum of £76,753 now sought to be raised would be sufficient to effect either of the purposes named. In the event of its being decided to lay down the Railway from Guildford to the terminus, the fact that Guildford is connected with Perth and Fremantle by water would give far cheaper carriage from the Eastern Districts to the City and Port than the present rates, and for that reason it is probable that it would not be necessary, for years to come, to extend the line of Railway from thence to Perth and Fremantle.

Not only are the people as a body, through their representatives in the Council, willing as far as may be necessary to submit to extra taxation for the purposes of opening up the resources of the Colony by means of Railways, but so great is the faith of the public in the remunerative nature of a Railway

connecting the Eastern Districts with Guildford or Fremantle, together with that of the proposed Jetty at the Port, and the various minor works named in the Bill, that it is believed half the required loan could be raised in this Colony.

The Council is not aware that any proposals have been made to construct Railways upon the guarantee principle, or that there is any probability that the portion of the line to the Eastern Districts in question would be undertaken by any person or Company within the time required in consideration of payment by land, but the Council is decidedly in favor of each of these principles, and would prefer either of such means of obtaining works of magnitude to any other.

Although the Council recognizes, with Your Excellency, the claims of the Champion Bay and Albany districts, the Council considered the works named in the Bill those of primary importance to the Colony generally. Important works in the Champion Bay and Albany districts have, however, been set aside, owing to the tenor of the Earl of Kimberley's Despatch, to await their turn.

As to Thompson's Road Engines, the Council is of opinion that they may prove valuable auxiliaries to Railways, but that they would not be suitable for truck lines such as that this Council proposes to construct.

For the foregoing reasons, the Council trust that Your Excellency will see fit to approve the Bill without amendment.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that for reasons he had already given he would divide the House on the report just read. He was aware that the report had been drawn up by a number of members who met last night—of which meeting he had had no intimation—so it would be simply useless to discuss the matter then, as the report would be carried by the majority who framed it.

The House then divided on the question, "Shall the report be adopted?" Ayes, 10; Noes, 6.

Address adopted.

#### REPRESENTATION OF THE PEOPLE BILL.

Message from the Governor—No. 16.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that His Excellency the Governor's Message No. 16, read yesterday, be taken into consideration.

In Committee.

Mr. STEERE moved the adoption of the following address in reply:—

*To His Excellency Frederick Aloysius Weld, Esquire, Governor and Commander-in-Chief in and over the Territory of Western Australia and its Dependencies, &c., &c., &c.*

MAY IT PLEASE YOUR  
EXCELLENCY:—

The Humble Address of the  
Legislative Council of Western Australia,  
Sheweth:

That the Council having had under its consideration Message No. 16 from Your Excellency, requesting that the "*Bill to amend the Representation of the People*" might be reconsidered, with a view to certain amendments being made therein, beg to reply as follows:—That having calmly and quietly considered the matter, it has seen no reason to alter the opinion it had already arrived at; and it considers that the provisions of the "*Bill*," as it passed its third reading, were such as will prove beneficial to the interests of the community at large, and as will be a safeguard to the due independence of this Council. The Council further ventures to think that similar enactments having been approved and assented to by Her Majesty, in the other Australian Colonies, will not be disallowed in Western Australia.

The Council is of opinion that it would not be advisable to disqualify contractors from being elected or from sitting and voting. The result would be that nine-tenths of the most eligible persons in this Colony would be debarred from representing the people, and if, as Your Excellency states, the exclusion of Government Officers limits the field for the choice of Members, the exclusion of contractors would very nearly close the range within which electors might choose. It must also be borne in mind that the greater part of the contracts in this Colony are small in amount, and that they are of such a nature as could not possibly influence the conduct of any Member of this House.

The Council is under the impression that Your Excellency cannot have seen, in all its bearings, the injurious results that would ensue were contractors rendered ineligible as Members, and that Your Excellency is not aware that the disqualification would extend to

persons who have become security for such contractors, thus still further lessening the number of men best qualified to represent the colonists.

The COLONIAL SECRETARY (Hon. F. P. Barlee) opposed the adoption of the report for the reasons he had already given for the passing of the Bill, but being in a minority, he had to submit to it. It would be extremely inconsistent in him, after what he had said on this Bill, to give his adhesion to the report. He would vote against the adoption of the report and divide the House on the point. As regards contractors not being under the influence of the Government he would simply point out the fact that they had passed an Act to raise the sum of £100,000, and if that sum was ever obtained the distribution of that money would possibly be done by contractors.

Mr. NEWMAN commented on the extraordinary way in which the Hon. the Colonial Secretary and the Hon. the Attorney General had remarked upon the Bill which was then the subject of discussion. He saw nothing himself inconsistent in giving the bond class a right to vote and asserting at the same time that they could not hold seats in the House. He was aware of course that if any of the class were elected they could disqualify him, as was recently done in England, but the circumstances of the colony called for the insertion of such a clause. As regarded contractors he agreed with the Hon. the Colonial Secretary the time would arrive when it would be necessary to introduce the clause mentioned, but that time had not arrived yet. The amount of contracts did not in many cases exceed the salary of a Government officer, and as the amount according to the Hon. the Colonial Secretary was not likely to be increased for some time to come, there was no necessity for its introduction. Besides, the Council was not permanent, and those who had contracts might leave it tomorrow. He considered that the report of the select committee perfectly accorded, one passage with the other.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that the hon. member for Fremantle had furnished very good reasons why the recommendation of His Excellency the Governor should be adopted. The colony was now endeavoring to raise a loan, and if that loan was secured, it would be necessary to pass a clause as that recommended by the Governor. When the loan was got and contracts undertaken, would the contractors then pass such a law as to exclude them from the House? He was afraid they would

not. He saw clearly why the recommendations of His Excellency should be adopted.

Mr. NEWMAN stated that the hon. gentleman had quite forgotten that there is ample provision in such cases; no member can vote when it is shown that he has a direct pecuniary interest in the matter.

The ATTORNEY GENERAL (Hon. R. J. Walcott) called the hon. gentleman's attention to the latest decision in the House by the Speaker.

Mr. NEWMAN: Certain members of Parliament in one of the other colonies voted to give themselves salaries.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said these were questions that had not been brought forward by the Government. They did not touch upon them. He quite agreed with the Hon. the Attorney General, and considered that the recommendations of the committee would prove disastrous to the whole Bill.

Mr. LOGUE stated that the Hon. the Attorney General said the majority of the House were contractors. It was not so.

The ATTORNEY GENERAL (Hon. R. J. Walcott) replied that he had said nothing of the kind and that the hon. gentleman seemed determined to misrepresent him in the House.

Mr. McKAIL had no objection to Government officers having seats if they had the qualifications.

Mr. MARMION having remarked on the question at issue as to Government officers and contractors having seats in the House said that Mr. Newman himself had given the very best reason why contractors should not be allowed to sit in the Council. He would therefore vote in favor of the insertion of a clause to that effect in the Bill.

The SPEAKER said he would be sorry to allow the question to be put to the vote without making a few remarks, and expressed his regret should the report be not adopted by the House. He would not like to see ex-pi-ri-ors or persons of that class have seats in that House, and he objected to Government officers on the broad principle that they would be subject to their superior officers in Council. As to the contractors he was sorry to see that the question had been brought forward at all. The contractors were the best men that could be found, possessing as they did every qualification both by birth and education to represent the people; why then exclude them from that House? An objection was made to the hon. member for Wellington being teller because he was a Government contractor. The nature of the

contract was this:—The hon. gentlemen lives some 200 miles from Perth, and to a police station near his own residence he contracted to supply five tons of hay! Was it not paltry to bring forward such a thing as a disqualification? He was sorry indeed that any such thing regarding contractors appeared in His Excellency's Message.

The ATTORNEY GENERAL (Hon. R. J. Walcott) did not know the standard of a contractor before. He did not know before that "standing," "birth" and "education" were necessary for a contractor. He deprecated importing into discussion in that House matters of a personal nature, by any hon. member, much less by the Speaker.

The SPEAKER said he did not perhaps make himself clear. He contended that when it was attempted to strike off the men who possessed all the good qualifications it was desirable to possess, an act of injustice would be done. The present members had on one side birth and on the other education, and everything necessary to enable them to sit in the House.

Mr. McKAIL supported the views of the Speaker.

Mr. BROWN considered that the Government were going from their own principles in refusing to allow contractors to have seats in the House and insisting upon Government officers being eligible to sit as elected members. The hon. gentleman then reviewed at some length the objection to Government contractors having seats in the Council and also the report of the hon. member for Wellington, and concluded by saying that there was not much probability of any Government officer being returned to the House as they were looked upon by the public at large as servile sycophants though among them were to be found as independent men as in any other branch of trade in the colony. He saw every objection to inserting in the Bill the last clause respecting contractors.

Mr. McKAIL considered it would be an act of injustice to exclude contractors.

The COLONIAL SECRETARY (Hon. F. P. Barlee) commented on the remarks that had fallen from previous speakers. The points under discussion had been introduced by members themselves. In the Government Bill nothing was said about them, but if they would introduce one clause they must have another or act as the Government did, and not insert any. He regretted the Speaker introduced matters of a purely personal nature into his remarks—A "contractor" was a "contractor"—therefore the clause must be made general. As to the remark of Mr.

Brown that Government officers were servile sycophants or were looked upon as such by the people, he did not believe it. Had he, he would ask, been a servile sycophant since he came to that Council? Had he simply waited to hear what the hon. member for Wellington had to say on any question before he had given his opinion? Had he not always been outspoken, and did the hon. gentlemen mean to say that he would not act in the same way to-morrow? He would simply deny that Government officers were servile sycophants, and assured the hon. gentlemen that among Government officers were to be found as honest and independent men as in the colony.

Mr. BROWN said that the Colonial Secretary himself had the credit of doing things from personal motives, but he did not say that that was his opinion, or the opinion he entertained of Government officers as a body. He was merely giving the opinion of the public. The hon. gentleman then proceeded at considerable length to support his views why contractors should be eligible to sit in the Council.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he did not wish to prolong the discussion, and moved that the question be put to the House.

The House then divided on the question, "Shall the report be adopted?" Ayes, 9; Noes, 7.

Address adopted.

#### CLARKSON v. SHERIFF.

Message from the Governor—No. 17.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that His Excellency the Governor's Message No. 17, read yesterday, be taken into consideration.

#### In Committee.

The ATTORNEY GENERAL (Hon. R. J. Walcott) explained the circumstances of this case at considerable length to the House, after which the hon. gentleman moved a resolution empowering His Excellency the Governor to authorize the Colonial Treasurer to pay the amount, £384 3s. 6d., out of the public funds.

The resolution was put and carried *nem. con.*

The Council adjourned at 6 p.m.