

privilege to any other institution of the same character, if it assented to this Bill. If it could be shown that there was any peculiar ground for granting this power to the governors of the school in question, he should be very glad indeed if it could be done, without prejudice to the claims of other corporate bodies holding grants from the Crown, in trust, for specific purposes. At present he could not see his way clear to support the Bill, though he had no intention to offer any active opposition to its second reading.

The motion for the second reading of the Bill was then agreed to.

PEARL SHELL FISHERIES BILL.

Read a third time and passed.

The House adjourned at a quarter past eight o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 13th August, 1883.

Eastern Railway: Deviation in Second Section—Vote for a Botanical Garden at Perth—Message (No. 13): Assenting to Bills—Municipalities Act (1882) Amendment Bill: first reading—Married Women's Property Bill: first reading—Electric Telegraph Bill: first reading—Concessions to Leases, Kimberley District, as to Pre-emptive Rights—Loss of Kingston Spit Buoy: Select Committee—Aboriginal Native Offenders Bill: further considered in committee—High School, Perth, Mortgage Bill: in Committee—Adjournment.

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

PRAYERS.

EASTERN RAILWAY: DEVIATION IN SECOND SECTION.

MR. CAREY, in accordance with notice, asked the Colonial Secretary:—
“(1.) If in the opinion of the Legal Officers of the Government, the deviation recently agreed to on the second section of the Eastern Railway is in

“any way a breach of the contract, or
“likely to lead to future litigation. (2.)
“To lay on the Table of the Council,
“for the information of hon. members,
“all papers and telegrams in connection
“with the above deviation, in view of the
“subject being brought before the Council in form of a Resolution.” The hon. member said the reason he put the question as to the probability of future litigation was, because (hon. members would recollect) a deviation from the original specification in the contract for the Northern Railway had involved the colony in a great deal of litigation and expense with the contractor; and there was an opinion abroad that this deviation on the Eastern Railway may also lead to future litigation.

THE COLONIAL SECRETARY (Hon. M. Fraser), replying, said: With respect to the first portion of the question put by the hon. member, it must be apparent that it would be highly inexpedient for the Government to admit or deny in this House breaches of the railway contract, or likelihood of future litigation with the contractor. With regard to further papers in connection with the deviation, I have nothing to add to the answers already given in the matter.

VOTE FOR A BOTANICAL GARDEN

IN PERTH.

MR. RANDELL, in accordance with notice, moved, “That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to place upon the Estimates for 1884 a sum sufficient, but not exceeding £100, for the purpose of obtaining information as to the desirability and probable cost of establishing in Perth, or its vicinity, a Botanical Garden, or other institution, for carrying out on an efficient scale the work of acclimatisation and propagation in this Colony of the vegetable products of other parts of the world, or such of them as are calculated to be of general benefit. And that His Excellency will be pleased to place the information before-mentioned, with any recommendations he may think fit to make upon the matter, before this Council at its next session.” The hon. member said he thought it would be unnecessary

for him to dwell at any length upon the merits of this question, for he believed there was a general feeling among members that the step proposed to be taken was a step in the right direction. He thought it was better to bring the matter forward in this form, rather than to ask the Council to commit itself to any large expenditure, until they had further information on the subject before them—information which he thought might be more readily obtained by the Government than by a committee of the House; and that next year they might be in a position to deal with the question in such a way as would meet the requirements and be consistent with the circumstances of the colony. When the subject was mentioned in the House last year, there seemed to be a general feeling among hon. members that some larger attempt at acclimatisation should be made than had been attempted hitherto. A vote of £50 a year was obviously inadequate for the purpose of introducing and acclimatising, to any useful extent, the vegetable and other productions of other parts of the world. In all the Australian colonies except this, efforts were being made, by the establishment of botanical gardens and other means, to introduce, and distribute, to those who apply for them, such foreign productions as were likely to flourish in colonial soil: and they all knew how much these gardens enhanced the attractiveness of the towns and cities where they were established, and at the same time contributed to the enjoyment of the inhabitants. Anything which tended to render the city of Perth more attractive in this way he felt to be a question of colonial or national concern; for the products of this Botanic Garden might be distributed all over the colony, where the soil and the climate were favorable to their acclimatisation, and, in this way, would minister to the enjoyment and add to the scientific knowledge of the colonists generally. There were many departments of horticulture and agriculture which might be made to contribute something in this direction—fruit trees, plants, cereals, grasses, and other products of the soil, which might be advantageously introduced, and whose introduction, he thought, might be more successfully accomplished in this way

than by private enterprise. He believed there were, here and there, a few private individuals—and all honor to them, he would say—who made some effort to increase the natural products of the colony in this way; but he thought hon. members would agree with him that not much could be expected, in a colony like this, from individual efforts, in this direction, and that it would be more satisfactory in every way if we had some public institution, having that object in view. For his own part—and he believed it was the general wish of hon. members—he should like this matter should be left to the discretion of the Executive Government, who, no doubt, if the means were placed at their disposal, would obtain the information which the resolution proposed should be obtained.

Motion agreed to.

MESSAGE (No. 18): ASSENTING TO BILLS.

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

"The Governor informs the Honorable the Legislative Council that he has this day assented, in Her Majesty's name, to the undermentioned Bills:

"1. *An Act to confirm the Expenditure for the services of the year One thousand eight hundred and eighty-two, beyond the grants for that year.*

"2. *An Act for the Maintenance of proper Order and Discipline amongst the Imperial Pauper Invalids in the Imperial Invalid Depot at Fremantle.*

"3. *An Act to make provision for the recovery of the Expenses of the Inspection of Licensed Vessels.*

"4. *An Act to Incorporate the Governors of the Fremantle Grammar School.*

"Government House, Perth, 13th August, 1883."

MUNICIPALITIES ACT (1882) AMENDMENT BILL.

MR. CAREY, with leave, introduced a Bill to amend the Municipal Institutions Further Amendment Act, 1882.

Bill read a first time.

ELECTRIC TELEGRAPH BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved the first reading

of a Bill to regulate and protect Electric Telegraphs.

Motion agreed to.

Bill read a first time.

MARRIED WOMEN'S PROPERTY BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved the first reading of a Bill to amend the law relating to the property of Married Women.

Motion agreed to.

Bill read a first time.

CONCESSIONS TO KIMBERLEY LESSEES, AS TO PRE-EMPTIVE RIGHTS.

MR. McRAE, in accordance with notice, moved the following resolution: "That, in the opinion of this House, every lessee in the Kimberley District who shall within four years from the issue of the lease or leases held by him have within the said district the number of stock or sheep required by the Stocking Regulations, shall at any time within such term of four years or within one year after such term be allowed pre-emptive right, extending over one year, to select in one block on any lease or leases held by him, not exceeding one per cent. of the total quantity of land leased by him; and such lessee shall be permitted to purchase such land so selected, at the rate of five shillings per acre, payable by annual instalments of one shilling per acre, extending over five years, and that upon the payment of the last instalment of the aforesaid five shillings per acre by the said lessee, he shall be entitled to and there shall be issued to him a Crown grant of the said land." The hon. member said his object in moving this resolution was to give the lessee some certainty of securing, at a reasonable rate, a sufficient quantity of land for the purpose of providing for himself a homestead. He did not think anyone could say that the conditions proposed were in any way unreasonable, comparing the terms upon which lessees in other parts of the colony could acquire land in fee simple. The settlers of this distant part of our territory, who risked their health, and he might say their lives, in building up a settlement in this new country had, at present, all the worse of our land laws. In the North

District lessees could acquire as much land as they liked, under a conditional pre-emptive right, at the rate of something like five shillings an acre, while in the Central and South-Eastern Districts the same privilege was granted to the settler on payment of 2s. 6d. an acre. But, in the Kimberley district, the settlers there had to pay 10s. an acre before they could acquire any land, and without any pre-emptive privileges. Taking into consideration the severe hardships these settlers had to undergo, the losses they sustained in endeavoring to stock the country, and the high rents paid, he thought the House would agree with him that the small concession he proposed would be a great boon to them, and one which they were fairly entitled to. The Surveyor General in his last report on the District, said: "I think every consideration is due to those persons who take stock to the District. The difficulties of obtaining and taking stock to this part of the colony, and the time necessary to do it, must not be lost sight of; nor the fact that, as a general rule, the pioneers are not rich men, but rather energetic men of small capital willing to risk their all and undergo privations in the hope of securing a competency in the future. These pioneers, and those who bear the burden and heat of the day," the Surveyor General added, "have my entire sympathy, and if Your Excellency can in any way give these concessions you may rest assured that you are assisting those who are in need of it and who deserve it." That was the opinion of a disinterested visitor to the district, and he thought it was a proper view to take of the situation. The resolution, if carried, would encourage settlement and induce lessees to stock their leases, and carry out the conditions of the land regulations in this respect, as soon as practicable, for, unless they did so, they would not be entitled to this pre-emptive right.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he rose with no intention of opposing the resolution; on the contrary, he might frankly say he would be glad if some such concessions could be granted to these lessees to enable them to provide homesteads for themselves; but the

resolution, as now worded, presented some difficulties. The main objection to it was this: it proposed to regulate the percentage of land open to selection according to the total extent of a lessee's runs, rather than in accordance with the area of each separate lease. For instance, if one lessee held five leases, he would be able, as the resolution now stood, to select in one block on any of these five leases one per cent. of the total quantity of land held by him, instead of that proportion on each separate lease. The result would be that, in the event of any of these leases being afterwards transferred, the next lessee would have no right of selection, that right having been already exercised by the original lessee to the full extent allowed by law, in respect of one and all of the five leases. He thought the right of selection should attach to each separate lease rather than to the lessee, who—under the resolution as it now stood—if he held a million acres, under (say) five leases, would be entitled to select within one of those leases a block of land 10,000 acres in extent, thus absorbing all pre-emptive rights in respect of the other four leases.

MR. STEERE suggested that the hon. member who had brought forward the resolution should withdraw it for the present and confer with the Commissioner of Crown Lands on the subject, so as to enable the hon. member to amend the resolution in such a way as to meet the objection mentioned by the Commissioner, and to render it more acceptable to the Government. He thought there would be no opposition to it in the House, so long as the resolution was a workable one.

MR. MARMION, without for a moment wishing to pit himself against the Commissioner of Crown Lands on such a subject as this, said he failed to see the force of the hon. gentleman's objection to the resolution. It appeared to him it would be more objectionable to allow lessees to pick out the land on each of their leases rather than in one concentrated block. If allowed to select on each and every lease, the cry would soon be raised that these lessees were picking out the eyes of the country, and he thought the very object of the resolution was to prevent that, as far as possible. Hon. members would observe that the right proposed to be given to lessees was

conditional upon their stocking their runs within a given time, and he certainly thought, unless some special inducements were held out, it would be found that the difficulties and expense attendant upon stocking this country were almost prohibitive. Probably few people had considered what the result of the stocking conditions being carried out would be, so far as the number of sheep required for that purpose was concerned. There were now some 44,000,000 of acres taken up in the district, and, even supposing only one half the required number of stock were placed on the land within the next four years, as contemplated in the resolution, it would amount to 440,000 sheep. That might be possible or it might not be possible; his own opinion was that it was neither probable nor practicable. But supposing these conditions were fulfilled, and there were 440,000 sheep scattered throughout the district within the next four years, this would give the right to the lessees to select 440,000 acres, which would bring in a revenue of £22,000 a year the first year, at a shilling an acre—in addition to the amount of rental now received—and, in five years, by the time the land was paid for, the colony would have received no less than £110,000 revenue from this source alone.

MR. CAREY said he did not rise to oppose the motion in any way; so far from doing so, he would give it his hearty support, for he considered it was in the interests of the colony that every legitimate encouragement should be given to bonâ fide settlement. His object in rising was merely to point out that, after all, the immense number of sheep which they were told would be required to stock this enormous territory, so as to comply with the stocking regulations, was not more than some of the settlers in the other colonies sheared on one station.

On the motion of MR. GRANT, the debate was then adjourned until Wednesday, August 22nd.

LOSS OF KINGSTON SPIT BUOY.

MR. SHENTON, in accordance with notice, moved that the report of a Commission appointed to inquire into the circumstances connected with the loss of the Kingston Spit Buoy off Rottnest be referred to a select committee, consisting

of the Colonial Secretary, Mr. Steere, Mr. Crowther, Mr. Marmion, Mr. Randell, and, by leave, Mr. Carey and the mover; with power to call for persons and papers.

Motion agreed to.

ABORIGINAL NATIVE OFFENDERS BILL.

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

Clause 3—Interpretation of terms:

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the consideration of this clause (in which Mr. BROWN had moved an amendment, when in committee before) be postponed, until after the consideration of the remaining clauses.

Agreed to.

Clause 4.—“It shall be lawful for a Magistrate to inquire into and try in a summary manner any felony or misdemeanor committed within his district (except any of those offences mentioned in the fifth section of this Act) with which any aboriginal native shall be charged before him, and the case of any native sent to him for trial under the provisions of the ninth section of this Act; and if the said native shall be proved to the satisfaction of the said Magistrate to have committed the offence charged, or shall voluntarily confess the same, it shall be lawful for the said Magistrate to sentence such native to be imprisoned, with or without hard labor, in any gaol or other place lawfully appointed for the confinement of such offenders, for any term not exceeding two years. Provided always, that if any aboriginal native shall be charged before a Magistrate with having committed two or more offences, the sentence or sentences for both or all of such offences shall not exceed in the whole the term of two years:”

MR. BROWN, without comment, moved that this clause be struck out.

After a pause,

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said, as no hon. member rose to speak to the amendment, he would himself say a few words on the question. This Bill was brought in for certain reasons, and it was based upon certain fundamental principles. The

principal reason which induced the Government to bring it forward was that various doubts had been expressed, in different quarters, as to the legality of the convictions of aboriginal native offenders by magistrates, paid magistrates, in various parts of the colony. He had already expressed his own opinion on that question, but others entertained or had expressed a different opinion, and he thought the committee would agree with him that it was always desirable that our legislation should be clear and beyond all doubt. Therefore one of the reasons which induced the Government to bring forward this Bill was that the powers of paid magistrates, with regard to these native offences, should be clearly and accurately defined; and one of the main principles of the Bill was, and is, that a paid magistrate in this colony had greater powers than that of the honorary or unpaid justice of the peace. Now this distinction between the magistrates and the justices was in no way created by this Bill; it already existed, and, so far from widening the distinction, this Bill brought the powers of the magistrates and the justices nearer together—[MR. BROWN: No.]—by limiting the powers of magistrates, or at all events by limiting the acts of magistrates, from giving three years imprisonment to two, while, on the other hand, the Bill in no way limited the powers of justices to give six months, as at present. Another reason for introducing this Bill, and another principle (if he might use the word) involved was, that, as there had been lately divisions of the colony which had tended to throw some little obscurity upon the powers of courts of quarter sessions, there was a power in this Bill for a magistrate or a justice, in a district which did not happen to possess a court of quarter sessions, to send native cases for trial before the court of quarter sessions which shall be nearest to the place where the offence was committed.

POINT OF ORDER.

MR. BROWN rose to order. The hon. gentleman was entering upon a general discussion of the principles of the Bill. There was nothing about courts of quarter sessions in the clause now under consideration, and the hon. gentleman

was clearly out of order in discussing the provisions of another clause.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said it was a pity the hon. member—assuming there was anything in his argument—did not rise a little sooner, before he (the Attorney General) had exhausted all he had to say on that point.

MR. BROWN appealed to the Chairman for his ruling on the point of order raised.

THE CHAIRMAN OF COMMITTEES said he was of course bound to rule exactly in the same way as he had ruled the other day, when the hon. member himself was called to order, when he proceeded to discuss the provisions of a clause that was not before the committee at the time.

DEBATE RESUMED.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), continuing, said he had already stated that the main reason for bringing forward the Bill was to make clear the powers of a magistrate as regards the exercise of summary jurisdiction in native cases, and therefore it was that the 4th clause (that now under consideration) had been put as the first substantial clause in the Bill. It defined clearly the powers of a magistrate in the future, so that there could be no mistake in the matter. An amendment had been moved to strike out this clause—and it would be idle to disguise from themselves the fact that it was proposed to strike it out, and also the other clauses all the way down, right through the Bill, in order that other clauses might be substituted for them, clauses which contained principles at variance with the principles of this Bill. The other night he suggested that this was an inconvenient course to adopt; he would go further and say that it was an irregular course. The second reading of a Bill was always the stage upon which the discussion took place upon the main principles of the Bill. Committees were merely for the purpose of amending that which had been admitted by the vote of the House on the second reading. Whenever they wished to disaffirm or deny the principles of a Bill it was their duty—it was the duty of every deliberative assembly which

was based on the practice of the House of Commons, and he thought it was a reasonable practice, which must be approved of by all well-constituted assemblies—it was their duty to affirm or reject the principles of a Bill on its second reading. He was not speaking here without book. He would draw the attention of the committee to what was stated on the subject in May's "Parliamentary Practice." Speaking of the second reading of Bills, that writer said: "A day having been appointed for the 'second reading, the Bill stands in the 'order book, amongst the other orders of 'the day, and is called on in its proper 'turn, when that day arrives. If the 'Bill has not yet been printed, the post-'ponement of the second reading is 'rarely resisted; but when the House 'has already ordered a Bill to be now 'read a second time, the execution of 'that order cannot be arrested by re-'quiring the clerk to read the whole Bill, 'the reading of the title being the only 'form recognised by usage. This is 'regarded as the most important stage 'through which it is required to pass; 'for its whole principle is then at issue 'and is affirmed or denied by a vote of 'the House."

THE CHAIRMAN OF COMMITTEES said it might perhaps save a good deal of discussion if he were to state that he was not at all with the hon. gentleman in the argument he was apparently introducing. Any amendment which was in accordance with the preamble of the Bill, which set forth its object—namely, to "consolidate and amend the Ordinances and Acts of the colony making provision for the summary trial and punishment of aboriginal offenders,"—would be perfectly in order.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he was not moving that the hon. member was out of order; he was simply quoting from May's Parliamentary Practice, as to the particular stage of a Bill when its principles should be affirmed or rejected, which was on its second reading. What he submitted here was this: The principle of this Bill, its *raison d'être* he might say, was the expediency of clearly defining the duties and the powers of magistrates in certain cases, and as this clause only recognised the paid magistrate as the

proper authority in this colony for exercising these powers,—if therefore the clause were struck out, and another clause substituted in its place, recognising the right of justices of the peace to exercise the same authority, the principle of the Bill would be destroyed. He had said all he had to say on that point. He hoped hon. members were prepared, as they ought to be, to discuss the provisions of this Bill in a calm and business-like manner. We had all our views—the Government had their views on this question, and hon. members also had their views, and were just as much entitled to those views as the Government were to theirs, and no one respected them more than he did for their honesty in maintaining and expressing their views. This was the time when he thought he might fairly make a suggestion to the Committee; for he thought they had seen by this time that there was a considerable divergence of opinion between one side of the House and the other with reference to this Bill. Now life, as they all knew, was to a great extent made up of compromises, and, although the Government still entertained the opinions they had expressed in this Bill, yet they were prepared to meet hon. members on the other side of the House with regard to this matter. It had been stated that this Bill sought to put the justices in an inferior, or in an objectionable position, as regards the powers of magistrates. Well, then, the Government were quite willing to do this, if they were met in the same frank spirit on the other side,—to make the honorary justices equal to the paid magistrates, but on this condition: that they shall be placed in the same position, both magistrates and justices, as regards dealing with aboriginal natives as magistrates and justices are in the other colonies. The Government were content to say this: that a magistrate and two justices may have the power to deal summarily with native offenders, to this extent—that they may sentence them—a magistrate or two justices may sentence them—to twelve months imprisonment, and no more. He thought hon. members, upon reflection, would see that this was a fair compromise. What would be the position, then, assuming this suggestion to be accepted? The position would be

this: Magistrates and justices in the colony of Western Australia would be in exactly the same position, in this respect, as the magistrates and justices are in the greater—he said greater because more populous—and more important colonies of Queensland and South Australia, colonies which were not governed so directly as this is by the Imperial Government, but colonies where responsible government had prevailed for a considerable time. He threw out this suggestion in the hope that it would be accepted in the same conciliatory spirit as it was thrown out—accepted as indicative of a desire on the part of the Government to meet those who differed from them, and to meet them as fairly as may be, half-way. He thought that, upon consideration, hon. members, however much they might differ from the views of the Government, would see this—that it was a way out of what otherwise might prove a very serious difficulty with regard to legislation on this question. They were all agreed, he thought, that legislation was necessary in this direction; but if they were not prepared to meet each other in a reasonable way, they might render legislation almost impossible if not altogether impracticable on this question. He hoped he had been clearly understood, and he hoped they would be able to conduct the discussion in such a manner as would show that they were all anxious to produce a Bill which would be useful and acceptable to the colony at large.

MR. BROWN said he did not think, after the Chairman's ruling, he need say anything as to the competency of the committee to strike out this clause and to insert a clause diametrically opposed to it, so long as it was not foreign to the object of the Bill. He did not suppose there was another hon. member in the House besides the Attorney General who considered it was not perfectly competent for the committee to introduce any amendments into a Bill consonant with its title and its preamble. This Bill was intitled "An Act to consolidate and amend the laws providing for the summary trial and punishment of aboriginal native offenders in certain cases;" therefore any amendments introduced with the *bonâ fide* intention of amending and consolidating the existing

laws were admissible. The hon. and learned gentleman himself would not deny, that, with one single exception, the amendments he (Mr. Brown) was about to propose were very much more in accord with the existing laws than were those peculiar provisions which had been introduced by the Government in this Bill with the view of their becoming the law of the land. He was not at all sure he ought not to apologise to hon. members for taking up their time in replying to the hon. and learned gentleman's arguments with reference to this 4th clause, but it might be desirable he should do so. The hon. gentleman was very anxious again to-night to impress upon the House that this Bill created no distinction between the honorary and paid justices, beyond the distinction which already existed under the law at present in force. In his belief the Attorney General was entirely wrong in that opinion. He believed the hon. gentleman stood alone in the views he had expressed that evening. In support of his contention, the hon. gentleman said the paid magistrates have at present greater power than the unpaid justices. Who ever said they hadn't? Everybody was aware that a stipendiary magistrate had as much power as two justices; but what he contended was this—that two or more justices in this colony ought to have the power of any paid magistrate. Nobody said that one justice ought to have that power; what he and those who were in concert with him maintained from first to last was that two honorary justices ought to have the same power as a single paid magistrate has. What they desired was that a stipendiary magistrate here shall retain and exercise, as in England and in the other colonies, the power of two honorary justices. But this 4th clause stripped the unpaid magistracy of all power, and vested it in the resident or police magistrate. Was not that creating a distinction, and an invidious distinction? The present law provided that a resident magistrate and a justice of the peace, sitting together and constituting a special tribunal, may exercise certain judicial functions, to this extent—that they may summarily sentence a native to three years imprisonment. That had been the law of the land for over twenty-

four years. Everyone—except the learned Attorney General—every legal gentleman in the place, he believed, maintained that a paid magistrate sitting alone had no power to exercise the functions of this special tribunal; he must have a justice of the peace associated with him, so that, as regards the powers of this tribunal, the two were on an equality. But this 4th clause sought to dispense with the right or the necessity of honorary justices sitting on this tribunal, and proposed to vest its powers in a paid magistrate alone. Was not that creating a distinction? In proof that this distinction was contemplated by the Bill, it would be found that it provided, in certain cases, that the honorary justices shall remit offenders for trial before a paid magistrate. He was sure hon. members would not submit to that. He was glad to hear the announcement made by the Attorney General that the Government desired to effect a compromise with hon. members in this matter. He had no doubt they desired, and every hon. member in that House desired to frame a Bill that would be a good Bill for the colony, but he did not think that end would be attained by accepting the compromise offered by the Government.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) failed to see that the Bill created any wider distinction between the paid and the unpaid magistracy than existed at present; on the contrary, it seemed to him to lessen the distinction. At present a stipendiary magistrate associated with a justice of the peace could give three years, and two justices sitting by themselves could give six months. Under the Bill, as brought in by the Government, a stipendiary magistrate sitting alone, or associated with a justice, might give two years. [Mr. Brown: Not associated with a justice, but alone.] That was a question. He was informed that under this Bill a stipendiary magistrate could associate himself with an honorary justice, as at present. [Mr. Carey: The Bill does not say so.] At any rate a justice of the peace, under this Bill, could give a native nine months, instead of six as at present, and a paid magistrate could only give two years at the utmost, whereas now he could give three, for each offence. Therefore he failed to see how it could be said

that the Bill widened the distinction already existing between the paid and the unpaid magistracy. His own opinion on this subject was that the punishment of native offences, to be effective, should be prompt and certain. He was not at all convinced—and he was not without some experience of these natives—that long sentences did much good to them, for such offences as sheep-stealing. He did not think the colony gained much by sending them out of their country for a long term of years, and incarcerating them at Rottneest. He believed shorter sentences, and more prompt action, would be more beneficial. If hon. members only knew the trouble and trials these natives had to go through and the hardships they had to endure, even before they were sentenced at all, they would probably be inclined to look at this matter in a different light. They were hunted like dogs, in the first instance, and when at last captured, by being pounced upon in the middle of the night, they were chained by the neck, and dragged about perhaps for weeks together, before they came to be tried, with their chains cutting into their flesh, and tied together to a tree at night. When the poor wretches at last reached the place they had to be tried at, they were, if convicted, sent on board ship, still in chains, and kept so until they eventually reached their destination, Rottneest, where they were kept perhaps for ten or twelve years in misery and possibly ill-health. He thought we owed these natives something more than repression. Anyone would imagine from the remarks of some hon. members, and from what was heard outside, that the natives were our enemies instead of our best friends. Colonisation would go on with very slow strides if we had no natives to assist us. Many hon. members in that House would agree with him in this—that they owed most they possessed in this world to the assistance they derived from the aboriginal natives. Not only that—they were powerful, they are weak. They had no voice in our legislation. We were dealing with members of the human family—he supposed so at any rate—and we had the destiny of these people in our hands, and if we ought to be just we ought also to be merciful. We had tried the efficacy of long sentences for many years now, and yet we were told that our native prison was more crowded to-day than it ever was in the history of the colony. Supposing we tried other means now, instead of these long sentences. He thought it was worthy of trial, and that it would do quite as much good if not more so. No doubt these natives should be taught not to steal, but it did not take half-a-dozen years to do that. He pitied these poor unfortunate wretches. They were fast disappearing from the face of the earth. It did not matter what we may do, in a very few years there would be none of them left at all. They were getting fewer in number every year, all over the colony, and there could be no doubt that their doom was to be extinguished off the face of the earth. He thought, therefore, it was our duty to treat them with as much consideration as possible, consistent with the safety of our own lives and property. After all, the offences committed by these poor wretches were not, in their own eyes at any rate, very serious offences,—though of course it was a serious thing for the settlers to lose their sheep. But he did not think there was much to be gained by sentencing them to long terms of imprisonment, and he hoped the House in dealing with them would not give all its thoughts and all its attention merely to punishing them.

MR. CAREY said the remarks which had fallen from the hon. gentleman who had just sat down had amused if they had not convinced the committee. The Bill at any rate had the merit of novelty; it was a new departure in legislation, for it gave paid magistrates a power which the law never before vested in them, while as regards the unpaid magistracy it swept away from that body the right which a justice now possesses of associating himself with a resident magistrate in dealing with native offences involving a more serious penalty than justices sitting alone are empowered to inflict. It must be remembered that these paid magistrates were not gentlemen learned in the law; and, as for their experience, many an honorary justice had tenfold their experience in dealing with the natives of the colony. Without any desire to be personal or invidious, he might ask the House to compare the

experience obtained by the present magistrate for the Gascoyne with the experience obtained by the present member for the Gascoyne; yet the former, if this Bill became law, would be trusted with much greater powers than the latter—associated perhaps with another justice as experienced as himself—would be trusted with; and for what reason? simply because it was presumed that the magic wand of the Treasury bestowed upon a salaried magistrate greater intelligence and greater skill in administering the criminal law, and also greater independence and greater honesty of purpose. This was a doctrine which he for one would not subscribe to.

Mr. RANDELL said he had not been aware that the Government intended to propose a compromise, but he had himself intended moving an amendment upon the clause as it now stood. With regard to the amendments proposed by the hon. member for the Gascoyne, he had been very much pleased with the remarks which had fallen from the Commissioner of Crown Lands on the subject of the treatment of these natives; they were sentiments which did credit to the hon. gentleman's heart at any rate. It was a mournful fact, he thought, that our dealings with the natives had in a great measure resolved itself into a question of how we could best deal with them by means of repressive rather than ameliorative legislation. To this end long sentences, and not only long sentences, but also cumulative sentences, had been resorted to, amounting, he believed, in some instances, to no less than twelve years. [Mr. Brown: No, no.] It was stated so in the House the other night, and without contradiction, and he therefore assumed that the statement was correct. He concurred with the Commissioner of Crown Lands in the humane sentiments which that hon. gentleman had expressed on this subject. He (Mr. Randell) had expressed himself to that effect before. He had no faith in these long sentences. He believed that in our whole system of penal legislation we had gone to the extreme, in this respect, and that, for that very reason, the system had missed its object as a deterrent of crime. The result in many cases had been that people had hesitated to put the law in motion,

whereas, with a knowledge that the penalty would be lighter, the machinery of the law would have been put in motion, and offenders, instead of escaping punishment altogether, would have been subjected to such penalties as would have answered the ends of justice, and possibly have had a salutary effect upon the offender, instead of hardening him. The hon. member for the Gascoyne, in moving the rejection of this clause, appeared to him to be standing in his own light. The hon. member must admit that the object which the Government had in view, was the object which the hon. member himself had in view—to do what was right and just, in the interests of the natives, in the interests of the settlers, and in the interests of the colony at large. He thought the exigencies of the case would be met if the paid magistrates and the honorary magistrates were placed on an equal footing, not only as regards the black subjects of the Queen but also the white subjects, but that in no case should the maximum punishment summarily inflicted exceed one year's imprisonment. Twelve months to a native was a very different thing to sentencing a white man to the same term. He thought it might be safely assumed that one year's imprisonment for a native was equivalent to three years for a civilised white; for, in the case of the black—as they had seen in a large number of cases lately—a comparatively short sentence may mean death itself. He believed that no less than about 30 natives sentenced at the Gascoyne were now in their graves at Rottneest, and he thought it had become a question which that House should very seriously consider, in the interests of humanity, whether it was right to allow either resident magistrates or justices to sentence these people to more than twelve months imprisonment. He might be able to induce the committee to go with him in this matter if he reminded hon. members that, when an offence committed by any native contained elements which a magistrate regarded as too serious to be dealt with summarily, the Bill provided other means for trying the offender, in a higher court. In this way, he did think the Government had endeavored to meet the circumstances of the case wisely and honestly, and he hoped that, instead of

accepting the amendment of the hon. member for the Gascoyne, the committee would vote for the clause as it stood, with this exception—that one year be substituted for two. He believed that in urging this he was speaking in accordance with public sentiment, outside of the districts more immediately affected; he was quite sure he was speaking in accord with the public sentiment of England—a sentiment which did honor to our fatherland, and the nation to which we belong.

MR. WITTENOOM said he rose to take exception to the touching speech of the Commissioner of Crown Lands and especially to his description of the manner in which native prisoners are brought in by the police. The hon. gentleman drew a very harrowing picture of black-fellows being dragged in with chains round their necks, and with their flesh bleeding, the poor wretches travelling this way for long distances, before they were tried at all. He had himself seen many natives caught, and in the hands of the police, but he never saw anything of that sort of thing. Not very many months ago he saw nineteen of them brought in, but he saw nothing of the shocking sights described by the Commissioner of Crown Lands. They all seemed to have plenty to eat, and were going down as comfortably as possible, under the circumstances. He had also seen white men in custody, and the only difference he noticed in their treatment was, that, instead of having iron round their necks they had it round their wrists. What was the difference he would ask? These men had to be taken in with some degree of security. He saw no brutality in treating a blackfellow the same as a white man. [Mr. FORREST: None at all.] As for the argument that Rottnest was more full of natives now than ever, and that consequently long sentences produced no good effect, he thought, if inquiry were made, it would be found that Rottnest was full of natives from a recently discovered part of the colony—from a part of the colony where those who had been sent to Rottnest had not yet had time to go back to tell their friends what they had gone through. There were very few Southern natives now on the island—a fact which went to prove that, so far as these natives are

concerned, Rottnest imprisonment had produced a repressive effect, and, no doubt, in time, it would have the same salutary effect upon the Northern natives. As to sending cases to the quarter sessions, it should be borne in mind that witnesses in the majority of these cases would have to travel hundreds of miles, which meant the expenditure of a great deal of public money. We wanted justice administered as effectually, but also as cheaply, as possible.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he desired to say one more word. It was possible he had omitted to mention, when throwing out the suggestion as to a compromise, that the Government were also content to strike out the proviso at the end of this clause, leaving the law, whatever it may be, with regard to cumulative sentences, as it is now. And, in order that there might be no mistake as to what they were willing to concede, he would again say that the compromise offered by the Government was this: that two justices shall have the same power as a magistrate, in the same way as they have in the other colonies; that that power shall be limited to sentencing an aboriginal native to one year's imprisonment, and that the law as to cumulative sentences shall remain as at present. It was urged that a reduction in the sentences would not have a beneficial effect, and it was contended that two years was the least that a magistrate ought to have the power to give a native. But he would point out—it was certainly looking at it from a low point of view, a very low point of view—but he would point out that they lost the services of that native for all that time, and they might not only lose his labor temporarily but permanently; he might become crippled for life, or even be brought to a premature grave. He was not romancing. They knew that several of these natives had recently died of their long sentences. He would also remind the committee, and he did so in all seriousness, for to him it was no laughing matter—he might regard it from a different point of view from other hon. members, but, as a lawyer and also as one who was a subject of Her Majesty the Queen, he viewed it as a very serious matter, and for this reason: by the common law of England

every subject of Her Majesty had a right, unless restricted by Act of Parliament, to be tried by a jury. The laws of England had been relaxed to a certain extent to meet the immediate necessities of cases which might be dealt with summarily and promptly, and in such cases the laws of England provided that one paid magistrate or two justices might give a man six months' imprisonment with hard labor, but no more. It was merely an exception to the general right of every Englishman, and of every subject of Her Majesty, to be tried by a jury; and, whether we liked it or not, these aboriginal natives were subjects of Her Majesty. We had come to their country and taken possession of it, and, in doing so, we brought with us here the common law of England, and that law was equal, or ought to be equal, over all men. He cared not what might be the color of a man's skin, he was subject to the laws of England as soon as the flag of England floated over him, and was then entitled to the same privileges and the same rights as other British subjects. And he rejoiced to think that in the other great colonies of Australia, in Queensland and in South Australia, aboriginal natives could not be sentenced to a longer term of imprisonment than a white subject. Those were not colonies engaged in experimental legislation, or in tentative efforts to deal with this native question. They were colonies which had been established as long as our own, and which had considered the matter fully, and found it to work well. He therefore asked the committee to pause before they rejected this clause, for he thought that in so doing they would be impeding the course of useful legislation, and he thought they would be rejecting a fair compromise, frankly offered, and offered with no other desire or intention than that it may be as frankly accepted. He asked the committee would they accept it or not? If they did—if the hon. member who proposed the amendment did accept this offer, then he would withdraw his amendment, and allow the debate to be adjourned in order to enable them to put the suggestions he had put forward on the part of the Government in a proper form. If, on the other hand, the hon. member persevered with his amendment, the Government would persevere

in moving the clause of the Bill, and it would be for the committee to decide between them. He had endeavored to speak calmly and seriously upon this subject, and he would again ask hon. members to remember that it was possible, even with the honestest desire to do justice between man and man, for people sometimes to be influenced by feelings that affected them almost without their knowledge. We should after all, in the future, be judged—not in this colony alone, but stand or fall in the sight of those who come after us—by a greater judgment, that of outside public opinion, of public opinion in these colonies and of public opinion in England, which was the mother of these colonies. And he did hope we should not do anything which in the future may lead anyone to say that in this matter Western Australia did not wish to follow in the footsteps of her mother, and in the footsteps of those great colonies, which had descended from the same great parent.

MR. BROWN said if they were to be guided by sentiment in dealing with this question how was it that no objection was raised to class legislation in another direction, under which men of our own race could be summarily dealt with and sentenced to any term not exceeding three years, and ordered fifty lashes, and to be put in irons? Where were the champions of those individuals? As to the period of three years, which the present law allowed a special summary tribunal to give native offenders, he thought it was an arguable point whether this term ought to be continued, or whether it ought not to be reduced. His own opinion was that two years might answer the purpose; but this was not the time to discuss that point. What they were asked to do by clause 4, which was now under consideration, was to decide whether a paid magistrate alone should have the exclusive right of exercising the functions of that special tribunal, and whether the honorary justices should no longer have any voice in it. The Government desired to compromise the matter; he also, and those acting in concert with him were prepared to compromise, by reducing the sentence which could be summarily passed upon a native from three years to two.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. H. Thomas) said he was not one of those who pretended to know everything, like certain amateur engineers whom he could mention, and he confessed he knew very little about the subject under discussion. But he had always been averse to class legislation. He thought that, as a rule, every subject of the Crown should be treated alike, and be under the same laws; but this perhaps was one of those exceptional cases which called for exceptional legislation, and for that reason he gave his cordial support to the Bill. He thought it proceeded on very proper lines when it sought to lessen the powers of magistrates to deal summarily with these unfortunate wretches. The hon. member for the Gascoyne had referred to a local Act which gave magistrates exceptional power over convicts. He did not think it was fair towards the aboriginal natives to class them in the same category as convicts.

MR. STEERE said it seemed odd to him that hon. gentlemen on the opposite side of the House should not have the courage of their convictions. A most impassioned appeal had been made to the committee not to have one law for the black and another for the white subjects of the Queen, and they were told that magistrates in England could not give any man more than six months. Why then did not the Government have the courage of their convictions, and introduce the same principle and the same limited powers into this Bill, instead of proposing to empower magistrates to give natives two years. At present the law authorised them to give even three years, and that law was brought into force when the Legislature of the colony consisted of members exclusively nominated by the Crown, and in which the representatives of the people had no voice. Therefore it was not fair to twit the members of that House with introducing class legislation. It was the Government themselves who had done so. He had heard very little said in the course of the debate with regard to the public expense which would be entailed by reason of the complicated machinery which the present Bill introduced. They were told that, if the justices were not satisfied with the sentence they could

inflict, they could send the case to a magistrate, and if the magistrate thought he could not give a man enough he might send him to the court of quarter sessions, and so on. He need hardly point out what great expense all this would entail upon the country. With regard to the compromise offered by the Government, reducing the powers of all magistrates, whether stipendiary or honorary, to giving twelve months only, he was afraid the result would be that magistrates would nearly in all cases refuse to deal with offenders, considering the punishment inadequate, and we should then have all these native cases sent for trial at courts of quarter sessions, a long distance off and at enormous expense. It appeared to him the Government to-night had completely changed front, since this question was under discussion the other evening; the whole argument then rested upon the question of jurisdiction and the equality of magistrates, but not a word was said about that this evening. The whole argument this evening was directed to the term of imprisonment which magistrates ought to be empowered to inflict; and in this respect the Government had changed front altogether. He quite agreed with the Attorney General that it was advisable this question should be definitely settled, for the hon. gentleman himself admitted that the law at present was very undecided—though for his own part he (Mr. Steere) thought it was clear enough, and that all those natives who had been sentenced to longer terms than six months by resident magistrates sitting alone had been illegally sentenced. He noticed in the papers presented to the House last session when this question was under discussion, that the then legal adviser of the Crown expressed an opinion to the same effect, and differed entirely from the opinion expressed by the present legal adviser of the Government. It was, therefore, very desirable that the law on the subject should be clearly defined, so as not to admit of this conflict of opinion.

MR. MARMION said, with every desire on his part to see justice administered fairly to both black and white, he should very much like to see a compromise effected between the Government and those who were opposed to

them on this subject. He agreed with much that had fallen from the Commissioner of Crown Lands in the forcible appeal the hon. gentleman made to the better feeling of the House as regards the treatment of these natives. Many hon. members in that House were themselves natives of the colony—though not aboriginal natives—and they certainly ought to feel some little sympathy for those who held the soil before their fathers and mothers ever came to the country. He quite agreed with the Commissioner of Crown Lands that it was to be regretted that the Legislature of the colony should so often feel called upon to consider repressive measures, rather than ameliorative measures, when dealing with these natives. The Legislature, however, had to deal with hard facts, and must not be led away by sympathy. Now what were the facts connected with this Bill? The Government introduced a measure giving the paid magistrates of the colony power to give a native two years, whereas, under the same Bill, justices of the peace could only inflict six months, or nine at the utmost. Finding there was a strong opposition to this distinction, the Government telegraphed to the other colonies to ascertain what the law was there, and the replies received went to show that, under the law there, two justices had precisely the same summary powers as a paid magistrate—an entirely different state of things to what the Government proposed in the Bill as introduced. The compromise which he would recommend, and which he would be prepared to support would be this—that a resident magistrate and that two justices should stand on identically the same footing as regards the treatment of natives. He would allow a resident magistrate to give two years, without the power of inflicting cumulative sentences, and he would allow any two justices exactly the same powers. He believed many other hon. members besides himself would be prepared to accept this compromise, and he hoped a majority of the committee would be prepared to accept that solution of the difficulty. He hoped the Government would not be averse to such a compromise. If no compromise could be arrived at, and the Bill passed in a form contrary to the wishes of the Government, what

would be the result? The Bill would probably be sent home, accompanied with the telegrams from the other colonies showing the state of the law on this subject there; and the influence of the Secretary of State and of Exeter Hall would be brought to bear upon the Bill, with the result that it would never become law, and the law would remain as at present, which was admittedly in an unsatisfactory state, because undecided.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said what the hon. member for Fremantle asked for was almost the same as what the Attorney General had already offered on the part of the Government. The hon. member asked that a resident magistrate or two justices should have power to give two years, but without power to inflict cumulative sentences; and the Attorney General proposed that a resident magistrate or two justices should be allowed to give one year, without any power to award cumulative sentences. In either case the paid and the unpaid magistracy would be placed on the same footing. The Government had been twitted with changing front. If changing front meant that they were willing to meet members half way, and that they offered what they considered a fair and honorable compromise, of course this charge of changing front must be admitted. But he did not think it was a very disgraceful proceeding on their part to endeavor to meet the views of the House as far as possible. If the amendment suggested by the hon. member for the Gascoyne were carried, it would have this effect: a resident magistrate or any two justices would be empowered to give a native two years, and it must be borne in mind that, by another Act, which he believed it was proposed to incorporate with this Bill, any justice of the peace residing twenty miles from another justice was authorised to act alone, so that virtually we should be giving one justice, in many cases, the same power as a stipendiary magistrate,—a power to sentence any native brought before him to two years imprisonment.

MR. BROWN said, as to a compromise, those who were acting in concert with him were, as he had already said, quite willing that the sentences to be summarily passed upon natives should be

reduced to two years; but he was not prepared to go any further at the present moment.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), in replying to what the hon. member for the Swan had said with regard to the Government having changed front, said he for one was not the least ashamed that the Government had made the House this offer. It was said they were not quite consistent. When people made a compromise they never were consistent. It was said they had not the courage of their opinions. They might have their opinions on this subject—some of them had, he knew he had personally, an opinion that we were going too far with these natives; but they were not there to act solely and entirely according to their own individual opinions. They were there to act as a body, and a body whose collective opinions they hoped would be such as would commend themselves to the majority, and to the world at large. Therefore whatever their individual opinions might be as regards the summary powers of magistrates over aboriginal natives, the Government were bound to propose what they thought there was a reasonable chance of carrying. Let there be no mistake as to this—that, in the division which was about to take place, he only proposed the Committee should divide on this clause, as it stood, for he understood the offer he had made to modify its provisions had not been accepted. If, however, the Committee were yet prepared to accept that offer, the Government would be content to report progress, in order that the suggestion might be put in proper shape. But, as he understood there was no likelihood of the compromise being accepted—and he was sorry it was not accepted, for he did not think it would be a good thing it should not be—the Government would divide on the clause as it stood, and they had nothing more to say.

MR. BROWN: Divide.

The committee then divided—Question: That the clause proposed to be struck out stand part of the Bill—

Ayes	7
Noes	14
			—
Majority against	...		7

AYES.
Hon. M. Fraser
Hon. J. H. Thomas
Hon. J. Forrest
Mr. Burges
Mr. Hamersley
Mr. Randall
Hon. A. P. Hensman
(Teller.)

NOES.
Mr. Brown
Mr. Burt
Mr. Carey
Mr. Crowther
Mr. Glyde
Mr. Grant
Mr. Higham
Mr. Marmion
Mr. McRae
Mr. S. S. Parker
Mr. S. H. Parker
Mr. Venn
Mr. Wittenoom
Mr. Steere (Teller.)

THE COLONIAL SECRETARY (Hon. M. Fraser) moved that progress be reported.

MR. BROWN: May I ask the hon. gentleman to state the reason why?

THE COLONIAL SECRETARY (Hon. M. Fraser): I am not aware that it is necessary to assign any reason.

MR. BROWN: I understand that if the clause is struck out the Government are not prepared to go any further with the Bill,—not prepared to make any further compromise. But, if the members of the Government are not prepared to go any further towards making the Bill a workable Bill, that is no reason why we should not endeavor to do so, and insert such clauses as we think will have that result.

THE CHAIRMAN OF COMMITTEES pointed out that the effect of reporting progress without naming a day to sit again would be that the Bill would be virtually dropped.

THE COLONIAL SECRETARY (Hon. M. Fraser): Understanding that, I now move that progress be reported.

Question put and negatived.

Clause 5.—Offences not summarily triable:

THE ATTORNEY GENERAL (Hon. A. P. Hensman): I move that this committee do now report progress and ask leave to sit again on Wednesday next. It will be obvious that, after the division which has just taken place, it will be necessary for us to consider our position and take counsel together. We put forward a certain clause, involving a leading principle of the Bill, and the committee has decided against us, and I think it is only reasonable we should have an opportunity to consider our position.

MR. S. H. PARKER: I think it is a very reasonable request indeed that the hon. gentlemen opposite should have an opportunity of considering their position. If they were a Ministry under Respon-

sible Government they would consider whether it was not their duty to tender their resignation, and that the hon. member for Geraldton be sent for to form a new Ministry. As, however, the hon. gentlemen do not form a responsible Ministry, it is only right and reasonable they should have an opportunity of considering what they are going to do.

Progress was then reported, and leave given the committee to sit again on Wednesday, August 15th.

HIGH SCHOOL, PERTH, MORTGAGE BILL.

On the order of the day for going into committee on this Bill,

MR. BURT said that, in consequence of the unexpected opposition that arose to the Bill, on the part of the Government, on the occasion of the second reading, he might be permitted to offer a few remarks at this stage with reference to the principle of the Bill. He moved its second reading in very few words, under the impression that there would have been no opposition to the measure. The governors of the High School, in their annual report, which had been presented to the House, drew attention to the fact that owing to the trusts upon which the school property is held being declared on the face of the title deed, the governors found themselves unable to procure, as was contemplated, a loan on the security of the school premises in order to complete the necessary additions to the premises, and that under these circumstances, and in view of further requirements, the governors intimated their intention of introducing a Bill of this character, for the purpose of investing the governing body with a power of mortgage. In view of this announcement, he must say he had been rather surprised, having received no intimation of there being any objection on the part of the Government to such a measure, to find the Colonial Secretary opposing the Bill. He thought, in view of the notification given of the intention of the governors of the school to introduce such a Bill, it would have been more courteous on the part of the Government if they had informed him beforehand that the Bill would not meet their approval, instead of raising an opposition to it after its introduction. He took it that

such a course was not pursued through mere inadvertence, and that they intended no discourtesy. At the same time he thought it would have been better if such an intimation had been made to him at an earlier stage, for he should then have more fully explained the provisions of the Bill when moving its second reading. It had been stated—and he knew of no other objection whatever to the Bill—that if the House approved of the principle of this measure, the principle of allowing the governors of the school to raise money on the school buildings by mortgage, other bodies would ask to be invested with the same power, and the House could not consistently refuse to grant their request. But he would point out that there was nothing novel about the present Bill. It contemplated no new departure. The same principle had already been approved by the House in connection with other bodies, such as the Freemasons, the Oddfellows, the Methodists, Congregationalists, Working Men's Institutes, and other institutions. He understood it was considered desirable in some quarters that the power proposed to be given under the Bill to the governing body of the school should not be exercised without first receiving the consent of His Excellency the Governor. He had no great objection to the introduction of such a proviso, if the House considered it advisable or necessary; but he should have thought that, inasmuch as the governors of this school were gentlemen appointed by His Excellency and that House, and were men who presumably were as well able to take care of the school property as any Governor of the colony would be,—he should have thought they might safely have been entrusted with this power, without having first to go to the Governor for his consent. The governors of this school were not like the trustees of some of the other bodies which had this power granted to them, who might be Brown to-day and Smith to-morrow, or who were likely to play ducks and drakes with the property. He took it that this would not be seriously advanced against a body of gentlemen nominated by the Governor of the colony and by that House. That was the reason why he had not introduced a proviso into the Bill, requiring the Governor's consent

before the property could be mortgaged. For his own part, however, he had no objection to the insertion of such a clause and, if moved, he should in no way oppose it. At the same time he would again point out that the power here sought to be given to the governors of the High School had already been given by that House to other bodies, and he thought it was rather late now to raise any opposition to granting this power to a body like the governors of the High School,—an institution promoted by that House, out of public funds.

THE COLONIAL SECRETARY (Hon. M. Fraser) asked the hon. member in charge of the Bill (Mr. Burt) to consent to postpone going into committee on the Bill until Wednesday, when no doubt they would be able to meet the hon. member's views, and be able to see whether the phraseology of the Bill was correct.

MR. BURT: I don't know what the hon. gentleman means by the phraseology of the Bill being correct. I have framed a good many Bills in my time, and I am not aware there has been any fault found with their phraseology, nor do I think will the hon. gentleman be able to find fault with the phraseology of the present Bill. The Bill has been before the House for a week, and the hon. gentleman surely might have read it before now, and ascertained whether the phraseology of the Bill is correct or not. However, in order to afford the Government an opportunity of making that phraseological discovery, I have no objection to postpone the consideration of the Bill in committee until Wednesday.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the phraseology of the Bill might be very correct and very accurate, but at the same time it might not convey an idea in which they could all agree. It might mean what the hon. member himself meant, but perhaps not exactly what everybody else meant. The hon. member seemed to express surprise that the Government was not prepared to accept the Bill at once, but he would remind the hon. member that this Perth school grant was a very valuable grant, together with the buildings upon it, and the deed whereby this property was granted expressly provided that it shall be held and appropriated for ever as a grammar school. Now it must be

obvious to anyone that if power of mortgage is given, the mortgagee would have the right to enter and sell, and, in that case, the very object for which the grant was given might be defeated. It was just possible that the Secretary of State might not be prepared to sanction the granting of a power which might defeat the very object which the Government and the Legislature had in view. As to the Fremantle Grammar School, the site on which the school was built could not be mortgaged without the consent of the Governor; but the governing body of the school might deal as they liked with any other lands which they might acquire.

MR. STEERE said, inasmuch as other bodies already possessed the power which this Bill sought to confer upon the governors of the High School, he failed to see, with these precedents before them, what possible objection the Government could have to granting the same power to the trustees of this institution.

MR. RANDELL then moved that the order of the day for the consideration of the Bill in committee be discharged, and that the House should go into committee on the Bill on Wednesday, August 15.

This was agreed to.

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

LEGISLATIVE COUNCIL,

Wednesday, 15th August, 1883.

Imported Labor Registry Act Amendment Bill—Metalling main street, Guildford—Forfeiture of Leases by nonpayment of Rent—Grant of land for Mission station at Kimberley—Message (No. 19): re Bills—Message (No. 20): Transmitting Dog Bill—Sunday Trains to Guildford—Tollalator Bill: first reading—Inspector of Accounts' Report on Railway Accounts—Papers relating to Eastern Railway Deviation—Aboriginal Native Offenders Bill: referred to Select Committee—High School, Perth, Mortgage Bill: in committee—Married Women's Property Bill: second reading—Adjournment.

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

PRAYERS.