month) some years ago. Surely the same principle applied to both cases.

THE COLONIAL SECRETARY (Hon. M. Fraser) said that when Mr. Learmonth went into the district there were no land regulations in force there,—the land being under the North District regulations—and it was following upon Mr. Learmonth's reported discovery that the Government closed the district for a time against others, until the whole question of how it should be further dealt with was considered.

The vote was then agreed to, and progress reported.

The House adjourned at half-past three o'clock, p.m.

LEGISLATIVE COUNCIL,

Friday, 3rd August, 1883.

Telephone Exchange—Provision for payment of Water Police—Medical Officer's Quarters, Geraldton—Rocbourne School House—Message (No. 11): Despatches *re* Emigration, Transfer of Lunatic Asylum, and Sir Julius Vogel's cable scheme—Message (No. 12): Appointment of Mr. E. A. Stone as Puisne Judge—Rebate of Duty on Bell for St. Joseph's Church, Albany—Native Aboriginal Offenders Bill—Reply to Message (No. 3): Coffee Palace—Cattle Trespass Act, 1882, Amendment Bill: motion for second reading negatived—Boat Licensing Bill: third reading—Fremantle Grammar School Bill: in committee—Adjournment.

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

PRAYERS.

TELEPHONE EXCHANGE.

MR. SHENTON, in accordance with notice, asked the Colonial Secretary, "What steps were being taken by the "Government to establish a Telephone "Exchange between the towns of Perth "and Fremantle?" Last session an address was presented to the Governor asking that steps should be taken to ascertain what amount of business was likely to be done in the event of a Telephone Exchange being established, and the Government promised to take such steps. The work was of importance, and, unless there was some insurmountable difficulty in the way, no time should be lost in establishing the proposed exchange.

THE COLONIAL SECRETARY (Hon. M. Fraser) replied: On the 18th April, at last Session of Legislative Council, correspondence showing the steps taken by the Government at that date was laid on the Table until the end of Session. No action was taken by the Council following on this, and nothing more has been done. The matter shall have due consideration.

PROVISION FOR PAYMENT OF WATER POLICE.

MR. STEERE, in accordance with notice, asked the Colonial Secretary, "In "what manner provision was made in "1882 for the payment of the Water "Police, as no sum appears on the Esti- "mates of Expenditure for that purpose "or in the Over-expenditure for that "year?"

THE COLONIAL SECRETARY (Hon. M. Fraser): I would first remark that, as hon. members are aware, the Select Committee on the Over-expenditure Bill, 1881, in their report expressed certain opinions on the subject of the payment of the Water Police and the attitude of the Home Government in relation to these charges, and subsequently some resolutions were brought forward by the hon. member for the Swan. As hon. members are aware, no reply has yet been received from the Colonial Office to those resolutions, but I have gone carefully into the question, so far as can be, pending the receipt of that reply, and, with every desire to give the hon. member the best information I can, my reply to his question must be this: "Provision "was made in 1882 for the payment of "the Water Police in the same manner "as was made in the previous year, and "shown in the Report of the Select Com- "mittee appointed to report on a Bill to "confirm the Excess of Expenditure for "1881 (of which the hon. member for "Swan was Chairman). Pending the "reply from Secretary of State the "amount advanced monthly is debited to "the Imperial Government in account "current with this Government."

MEDICAL OFFICER'S QUARTERS, GERALDTON.

Mr. STEERE, in accordance with notice, asked the Director of Public Works, "Whether he raised any objection to the expenditure of £300 upon "the Medical Officer's Quarters at Geraldton being taken from the sum appropriated for the erection of a Hospital "at Geraldton; and, if so, whether he "would lay upon the Table of the House "any minute or correspondence in which "such objection was made?" It would be in the recollection of hon. members that it transpired the other day that the late Governor had authorised £300 out of the vote for a Hospital to be expended upon the doctor's quarters at Geraldton, without any reference whatever to the Council, and in the absence of any vote. He now wished to know whether the responsible head of the Works Department had made any minute upon the subject.

The DIRECTOR OF PUBLIC WORKS (Hon. J. H. Thomas) said: Yes; the following minute was written by me on the 23rd August, 1882:—"A "very good plan was prepared for a "Hospital at Geraldton some two years "ago, which was estimated to cost over "£3,000. This I should not like to see "altered in any way. A portion of it "might be erected with the £2,000 that "would be sufficiently commodious for "the present, but I am afraid that if we "take £300 for these Quarters, we shall "not have enough to do what is required "with regard to the Hospital."

SCHOOL HOUSE, ROEBOURNE.

Mr. GRANT, in accordance with notice, asked the Colonial Secretary, "By "whose authority the school-house at "Roebourne was sold by the Government "Resident, and what had become of the "proceeds of such sale?"

The COLONIAL SECRETARY (Hon. M. Fraser) said a reply would be given to the hon. member's question after consultation with the Central Board of Education.

MESSAGE (No. 11): DESPATCHES *RE* EMIGRATION, TRANSFER OF LUNATIC ASYLUM, AND SIR JULIUS VOGEL'S CABLE SCHEME.

The SPEAKER notified that he had received the following Message from His Excellency the Governor:

"The Governor has the honor to trans- "mit, herewith, for the information and "consideration of the Honorable the "Legislative Council, the under-men- "tioned Despatches from the Right "Honorable the Secretary of State for "the Colonies, namely:—

"1. Despatch, 'Emigration,' dated "20th June, 1883.

"2. Despatch No. 98, dated 27th June, "1883.

"3. Despatch No. 100, dated 29th "June, 1883.

"These Despatches relate to matters "already brought before the Council. "The two former are respectively in con- "nection with the Governor's Messages "Nos. 10 and 6, and concern the ques- "tions of Emigration and the transfer of "the Imperial Lunatic Asylum to the "local authorities.

"The third Despatch relates to the "Cable Schemes of Sir Julius Vogel, as "to which the Govenor has already com- "municated to the Earl of Derby, by "telegraph, the decision of the Legis- "lature.

"Government House, Perth, 3rd "August, 1883."

MESSAGE (No. 12): APPOINTMENT OF Mr. E. A. STONE AS PUISNE JUDGE.

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

"The Governor has the honor to trans- "mit, herewith, to the Honorable the "Legislative Council, a Despatch (No. "95, dated the 23rd of June) which he "has received from the Right Honorable "the Secretary of State for the Colonies, "respecting the appointment of a second "Judge of the Supreme Court, and the "nomination of Mr. E. A. Stone to that "office.

"The Governor proposes to provide for "the salary of the new Judge at the rate "of £700 *per annum*, and will be glad to "learn whether the Council are prepared "to authorise such a payment.

"The new appointment could, if the "Council approve, take effect upon the "return of Mr. Stone from leave, on the "1st of November next.

"The Governor is confident that this "addition to the Bench of the Supreme

"Court will be in every way an advan-"tage to the Colony.

"Government House, Perth, 3rd "August, 1883."

The consideration of this Message was made an Order of the Day for Monday, August 6th.

REFUND OF DUTY ON BELL FOR ST. JOSEPH'S CHURCH, ALBANY.

SIR T. COCKBURN-CAMPBELL having moved the House into a committee of the whole,

MR. SHENTON moved, "That an "Humble Address be presented to His "Excellency the Governor praying that "he would be pleased to place on the "Supplementary Estimates, for 1883, the "sum of £6 5s., being the amount of "duty paid on a Bell imported from "France for the use of St. Joseph's "Church, Albany."

Agreed to without opposition.

ABORIGINAL NATIVE OFFENDERS BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), in moving the second reading of this Bill, said he desired to say a few words on the questions with which it dealt. It was an Act consolidating the laws dealing with the summary powers of magistrates over aboriginal natives, and he thought every member of the House would agree with him that in Acts which were made by Europeans dealing with uncivilised persons we ought to proceed with the greatest care, because, first, we are powerful and these people are powerless, and, in the next place, they were not represented; therefore in legislating for them we were acting without their having an opportunity of expressing their views on the matter. This was a necessity of the case. Consequently he thought all would agree that we ought to proceed with the greatest caution in this matter, lest in our desire to keep order in distant parts of the colony, we might do injustice, inadvertently, to these people. It seemed that it was in 1849 the original Act dealing with this question was passed, and that Act had remained the law, with some amendments, up to the present time. By that Act (12 Vic., No. 18) power was given to two justices, one of whom must be a guardian or sub-guardian of natives or a resident magistrate of the district, to inquire into certain felonies and misdemeanors, and to award summary punishment for any term not exceeding six months. Now the office of guardian or sub-guardian of natives had practically fallen into disuse, and therefore they might take it that two justices one of whom was the resident magistrate had power to sentence natives to this term of six months. In 1859 this limit of punishment was extended to three years. In 1863, by the Act 27th Vic., No. 17, it was made lawful for any police magistrate or resident magistrate to do alone any act that required to be done by more than one justice of the peace,—in other words, whereas the first Act required two justices one of whom must be a resident magistrate to give this punishment of six months, afterwards extended to three years,—by the Act of 1863 the same power was given entirely to a resident magistrate. In 1874 power was given to any two justices of the peace—that is, two honorary justices, to try natives summarily, and to sentence them to any term of imprisonment not exceeding six months. And so the law had stood up to the present time. Now the House would see that, from the earliest days of legislation on this matter in the colony up to the present day, the law had drawn a distinction between the powers of honorary justices and the powers of resident magistrates or paid magistrates. Nor was it unnatural that the law should have drawn that distinction, because the resident magistrates had been persons who were paid by the colony to do certain work, who had been expected to do that work at all times, who had been provided with books, with clerks, and who had, in fact, been put in the position of paid officers, responsible to the Government in the performance of their duties. The honorary justices were gentlemen, as they all knew, who devoted a portion of their time, to the great benefit of the colony, to the occasional discharge of certain public duties, but who were not under any positive obligation to devote any portion of their time to the performance of that duty. They were not paid for doing the work, and it

would have been idle on the part of the Government to have expected these gentlemen, many of whom were engaged in business or in agricultural pursuits, to give the same attention to the study of the law as was required from resident magistrates who were paid for doing their duty. The Act which was now before the House proposed to make no great change, or to alter the law in any respect, or the custom, in these matters; but it proposed to consolidate and at the same time, to a certain extent, to alter and amend the existing Acts. It proposed to amend them in a way which the Government were of opinion would be in accordance with the feelings of society at the present time. The one object of the Bill was that it shall be an Act in itself, and that, instead of magistrates—by which he meant resident magistrates or paid magistrates—and justices having to search through six Acts of Parliament in order to arrive at exactly their duties, and their powers over aboriginal natives, they should have in this one Act a catechism (if he might use the expression) of their duties. He thought, whatever hon. members might think as to the provisions of the Act, all would agree that this was a most desirable thing, and also that it was desirable that the powers of magistrates and justices, about which different opinions had from time to time been expressed, should be clearly defined, so that there shall be no mistake in the matter. Now this Act contemplated four separate tribunals for dealing with aboriginal native offenders, and prescribed what course shall be pursued in respect of any charge whatever brought against a native, and also defined the procedure in every such case, and the tribunal before which the offender might be tried. These four tribunals were (1) the honorary justices; (2) the magistrates (which term was by the Act confined to Government residents, or resident magistrates, or police magistrates); (3) the court of quarter sessions; and (4) the Supreme Court. With regard to justices—by which he should always mean the honorary justices—the Bill allowed two, or in some cases one justice where no other was resident within twenty miles, to try any native for any offence except those punishable with death, and to give him six months for such offence; or, if the native be charged with two offences, to give him nine months. By two offences he meant such a case as this: supposing they got a native who had on one day stolen a thing and next day stolen another, and so committed two thefts, one perhaps directly after another, these might to a certain extent be looked upon as one offence, the man at the time being in a bad frame of mind. It had been said, and said with authority, that there had been cases in this colony in which natives had been sentenced to various terms of imprisonment, varying from six months to three years, as the case might be, one on the top of the other, one following the other, and he had been told there had actually been cases in which these cumulative sentences amounted to six and even nine years, for offences dealt with summarily. The present Bill sought to put a limit upon the punishment to be awarded in such cases, and provided 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. So that, while on the one hand the Act extended the powers of the honorary justices by empowering them to give nine months instead of six months, which was the limit of their powers at present, it contracted the powers of the paid magistrates as regards giving cumulative sentences; in other words, the highest punishment which a stipendiary magistrate, under this Bill, could inflict upon a native offender, tried summarily, was a term not exceeding two years. The Bill also made the following provision: if a native should be brought up before one or two justices, and they were of opinion that this offence was of too serious a character for them, with their limited power of punishment, to deal with, there were several courses before them. In the first place, they might send the case to the nearest paid magistrate for trial, to be dealt with in a summary way, which tribunal, as already said, would be empowered to give two years, but no more. Now, in this colony, although it was of such a vast area, still, as a rule, it was not largely settled,—it was not settled to the extent of having justices of

the peace and a large body of settlers very many miles inland. He supposed, if they were to take a radius of 150 miles from the seaboard they would probably come to the extreme point of what he might call general settlement; but every district had its resident magistrate, and this Act empowered our honorary justices, when they were not satisfied with the punishment which they could give a native, to send him for trial by the nearest magistrate. Then, again, if the magistrate, when the case came before him, considered that two years would not be an adequate punishment he could send on the case to the next quarter sessions—which tribunal had power to deal with all cases short of offences punishable with death—or to the Supreme Court itself. In the same way, the court of quarter sessions, if of opinion that any case remitted to it for trial was of too grave a character to justify that court in dealing with it, could, as at present, by the power already inherent in it, send it on for trial at the Supreme Court. Therefore the Bill might be said to provide the machinery whereby every case could be dealt with according to its merits, and the proper amount of punishment which ought to be meted out to the offender. It might be suggested by some that possibly greater powers might have been given in the first instance to these summary tribunals; but they must always remember that these summary tribunals were tribunals limiting the right of every subject of the crown of England to have his case tried by a jury of his countrymen. In England such power did not exist beyond that of giving a man six months, any more than it did here, except as regards these natives; and it was a great power to put into the hands of any one individual, without that assistance which is to be derived from the deliberations of twelve men in a jury box,—it was a great power for one individual even to be empowered to sentence a man, be he black or white, to a term of six months imprisonment. And he would suggest to the House that, after all, it was not inordinately long sentences, unduly severe sentences, which repressed crime; and that crime—especially such crimes as were usually committed in outlying districts by half savages—was more likely to be suppressed by prompt and certain punishment than by a long term of imprisonment. And it seemed to him that the power of meting out prompt punishment, to the extent of six months, for any offence committed by these natives, was a power which in most cases would be sufficient for all purposes. They should always remember that natives who had been accustomed to wander about without restraint must feel the confinement of imprisonment much more than a European or civilised man would. Now with regard to the Bill before the House there was this further provision: the 10th section required that as soon as possible after every conviction under the Act, the magistrate or the justices who tried the case shall transmit a record of such conviction and a report of the case to the Colonial Secretary. He thought no one could but agree that this was a right provision to make, for if a justice or a magistrate acted upon proper information and upon proper evidence he could have no objection whatever to send a short account of the case, including the evidence for and against the prisoner, to the proper authority. By the eleventh section of the Bill, in order to meet the case of justices acting at a long distance from head quarters, without books or anyone to advise with them, and so that they may not get into difficulties, provision was made that no want of form in the various documents they may have occasion to draw up or to use shall render a conviction bad or invalid, and that in all cases regard shall be had to the substantial merits and justice of the case. There was a final provision—and when he had referred to this, he would have stated all he had at present to say with reference to the Bill—whereby the Governor had power to order a magistrate to move about the country, if necessary, and to act in another district than his own. Difficulties had arisen from time to time in this colony as to the powers of magistrates out of their own districts, and it was to meet that difficulty that this last clause had been inserted, and it empowered the Governor to appoint any person—whether already on the commission of the peace or not—to act as a magistrate in any part of the colony, and this person, during the term of his appointment, would exercise every

power, not only under this Act, but also in all other matters and things, both civil and criminal, within the jurisdiction of a resident magistrate. At present a magistrate, before he could be invested with these powers, must be appointed to a district permanently, but under this Bill a man might be appointed to any part of the colony, and for a time only. This was done, as he had already said, in order to meet certain difficulties which had arisen as to the jurisdiction of magistrates out of their own districts. These were the main provisions of the Bill, and with these remarks he now moved its second reading.

Mr. BROWN thought every member must have felt indebted to the hon. and learned gentleman in charge of the Bill, for the lucid manner in which, from his own point of view, he had explained its provisions. He must confess, however, that when he first read the Bill, it was his intention to move that it be read a second time that day six months, because he found that it proceeded upon lines diametrically opposite to those which the Legislative Council of the colony last year, in dealing with this very question, recorded their desire that legislation should follow. They recorded that desire in the strongest manner possible for that House to do so, by passing a Bill, and passing a Bill without one dissentient voice being raised against its provisions, either on the part of the elected members or on the part of the members occupying seats on the Government bench. He thought everyone would agree with the statement of the Attorney General when the hon. gentleman said that we should proceed very cautiously indeed when dealing with legislation affecting untutored savages, who are subjects of Her Majesty the Queen, particularly so when those savages were enforced subjects, in the way in which our own natives are, and particularly when those subjects are unable to appreciate and understand the reasons why such laws are framed for the regulation of society. He believed that the various Legislatures and the successive Governments of this colony *had* proceeded in an extremely cautious manner in dealing with this subject, and that the lines upon which the laws relating to the summary trial and punishment of aboriginal native offenders had proceeded, had been found to work well, and to work in the interests of these black subjects of Her Majesty. He would go a great deal further than the learned gentleman in charge of this Bill, in protecting and guarding the interests of these natives, and, later on, he would point out where, in his opinion, those interests were not so well served by this measure as he thought they ought to be. But he would first of all mention a few of the objections which he had to the Bill in other respects. He did not intend to go into the whole of them, but at this stage would content himself by mentioning the main objections. He objected to the Bill, in the first place, because it proposed to reduce the term of imprisonment that may be summarily awarded to native offenders from three years to two. The reasons given by the Attorney General for such an alteration in the law did not commend themselves to his (Mr. Brown's) judgment. He was not at all aware that the history of the native race in this colony called for a reduction in the sentences which may be summarily passed upon them. It was found that, notwithstanding the fact that for the past twenty-four years there had existed this summary power of inflicting sentences of three years imprisonment upon native offenders, there were at this moment a greater number of native prisoners at Rottnest than he supposed there ever had been in the history of Western Australia. That certainly was no ground for a reduction of the term of punishment. He objected to the Bill, again, because it restricted, because it took away, the power now vested in magistrates with regard to cumulative sentences. If hon. members would look at the fourth section of the Bill—which, he noticed, the Attorney General passed over very cautiously—they would observe that not only was the term of 3 years reduced to two, but also that the magistrates who had this special and he thought peculiar power of acting alone, would, if this Bill passed, have no power whatever to increase the term of imprisonment in consideration of any extra number of offences, so that no matter how many offences a native may have been guilty of, the maximum of the sentences that could be passed upon him for all of them put

together must not exceed the term of two years, the sentences being concurrent and not cumulative. He himself was not acquainted with a single justice who would not hold precisely the same views as the Attorney General in reference to the several offences that might be committed on the spur of the moment so to speak, or within one or two days of each other, and he thought any magistrate called upon to deal with such cases would view the offence as one and treat it as such; but there were cases that might come before a magistrate in respect of which he thought it would be highly desirable that this power of inflicting cumulative sentences should be retained. He might state a case in point. It was not so very long ago that a number of natives at the Gascoyne were captured by the police, and were endeavored to be retained in safe custody at the lockup at Carnarvon. These men were then so to speak in the clutches of the law; they knew they were detained there for having transgressed the law—he did not know exactly what the nature of their transgression had been, but he believed they were charged with having killed a number of sheep,—an offence which His Excellency the Governor, in his opening speech, said must be put down. Well, these men succeeded in breaking their chains and got away; and a grand little piece of fun they had. They immediately went to the house of one of the persons at whose instance they had in the first place been captured,—he was referring to Mr. Charles Brockman—they broke into the house and took away a large quantity of stores, and also proceeded to destroy more sheep, the property of different settlers in that part of the district. Now he submitted that this was one instance out of many which might be recorded in which he thought the proposed limiting of the powers of magistrates as regards inflicting punishment would be undesirable. Inasmuch as some of these natives had committed what he might call a series of depredations, had been guilty of several offences against the law, it appeared to him that the power now proposed to vest in magistrates limiting the sentences for any number of offences to two years would be inadequate. He thought the discretionary power now vested in these magisterial tribunals as regards inflicting cumulative sentences might well have been exercised in such cases as these, and in other cases where even three years would not be too heavy a punishment at all, even for one of the offences committed, when those offences were of a serious and aggravated character. Therefore that was another reason why he objected to this Bill. The Attorney General stated what was altogether new to him (Mr. Brown) with respect to the laws of this colony, with respect to the distinction, as the hon. and learned gentleman termed it, which the laws have always drawn between the powers and jurisdiction of resident magistrates and of honorary justices. He was aware that various opinions had been entertained and expressed with reference to this matter, but, in his humble judgment,—which he did not in any way pit against that of the hon. and learned Attorney General,—in his humble judgment the only distinction that was drawn between the stipendiary and the honorary justices by the laws of this colony had been this: that resident magistrates, on the grounds of economy of expenditure, and on that ground alone, with a view to save expense to the public who had to come before their courts, were allowed to exercise the powers of jurisdiction given to two justices. But a stipendiary magistrate had no power or jurisdiction given to him of a different nature from the power or jurisdiction which the law gave to the honorary justices. He was perfectly satisfied that the 27th Vic., No. 17, was never intended to meet the case which the Attorney General desired that House to believe it was. It never was intended by that Ordinance that a resident magistrate alone should exercise the jurisdiction of that special tribunal which is at present allowed to deal with native offenders; it never was contemplated that two justices should have power to give three years imprisonment. It required that one of these two justices should in every case be a resident magistrate. And in his opinion—he said it with some diffidence—it never was intended that a resident magistrate alone should exercise the functions of a resident magistrate and a justice of the peace sitting together. The hon. and learned gentleman had not told them

why the honorary justices should now be deprived of the right that the law had given them up to this time, of a voice in the tribunal which this Bill proposed shall still be retained for the purpose of awarding longer sentences to meet the graver cases. That certainly was legislation on a new line altogether. What reason was there, he should like to know, to debar the honorary justices from exercising the jurisdiction which up to the present time the law allowed them to exercise? Why should there be this distinction between the stipendiary and the honorary magistracy? The hon. gentleman had not told them why this change was desirable, a change which, in effect, degraded the position of honorary justices. He also objected to the Bill because in certain cases it rendered it incumbent upon the honorary magistrates to remit cases to be tried by a paid magistrate. What the intention of the Government may have been he could not say. He was sure their intention was not to do what he held this Bill did. This Bill created an invidious distinction between paid and unpaid justices—a distinction which he resented as an insult paid to the honorary justices throughout the colony. He trusted that the members of that House would show their appreciation of the wisdom of that law which created no distinction between paid magistrates and honorary magistrates, and which declared that each and all shall be perfectly independent. What could the object of the Government be—he asked again—in creating this invidious distinction? If this Bill dealt with a variety of subjects, with a number of intricate questions of law which required a large amount of legal knowledge on the part of the tribunal entrusted with carrying out its provisions, then he thought there might have been some little ground for the proposition to make this distinction. But the Bill did nothing of the kind. It dealt simply and purely with the ordinary offences committed by natives, while the graver offences which human beings occasionally were guilty of could not be touched under this Act. They must still be sent to another tribunal. All the Bill contemplated was that the tribunal dealing with offences of the character that came within its operation should be composed of men of ordinary common sense and integrity. And these were attributes and qualifications which he claimed for the honorary justices of this colony. The Attorney General, in his speech, took them over the various paths, the long road, by which justice was reached under the provisions of this Bill. The hon. gentleman named four tribunals which would have various distinct powers of dealing with native offences, and this was another objection to the Bill. Instead of simplifying the administration of the law and making it clearer and easier, it actually complicated and rendered it more difficult. Another objection was, that instead of diminishing the expenses attendant upon the administration of justice, it tended rather to increase those expenses, and it tended to increase them in one or two ways. He noticed by the Bill that magistrates under this Act would not be empowered to do what they could do now. If his memory of the law served him they could now deal with cases of wounding, beating, or striking a person—in other words, cases of common assault—he did not mean wounding with intent to do grievous bodily harm, or intent to murder,—he should never dream of asking such a power to be placed in the hands of a summary tribunal. But the present Bill it appeared to him debarred magistrates, paid or unpaid, from dealing summarily with those minor offences, which he thought might safely be left in the hands of the magistrates. [The Attorney General: The hon. member is entirely wrong.] He thanked the hon. and learned gentleman for that assurance. This, however, was a very minor objection. If it could be shown that there was any necessity for the complicated and expensive machinery provided by this Bill for dealing with native offences, he for one should be perfectly ready to support it. But that House asserted last year, after due discussion, that there was no necessity for keeping up even the existing machinery, and that the circumstances of the case would be met, in the interests of both black and white, if the Government of the colony would repose some little amount of faith in its honorary magistracy, and give to them the power to deal with these aboriginal natives to the

extent of awarding sentences of three years imprisonment,—the power which was now given to that special tribunal consisting of two justices one of whom shall be a resident magistrate. Why this should not be done he was at a loss to know. Surely the Government did not wish to have these sentences of three years—or of two years as was now proposed—imposed only by a magistrate who was under their thumb. It could not be that, for they all knew that magistrates, whether stipendiary or honorary, were supposed to be, and ought to be, perfectly independent of the Government, and he believed that a paid magistrate had a right, although paid out of the public treasury, to resent any interference on the part of the Government in the exercise of the functions vested in him by law. If, however, the intention of the Government was not to limit this power to magistrates over whom they might be supposed to have some control, all he could say was, that he failed to see why this exception should be made in the case of honorary magistrates. It would, undoubtedly, vastly lessen the expense attending the administration of justice, if the Government would join the members of that House in giving the power he had referred to, to any two justices, to deal with these minor offences. There would then be no occasion whatever for settlers to do what they had to do heretofore,—to take in witnesses and to travel themselves hundreds of miles for the purpose of getting justice meted out to native offenders, by a special class of magistrates in the employ of the Government. There were numbers of honorable and intelligent gentlemen in the districts where the majority of these natives now committed offences, who were perfectly well fitted for the position of justices, and there were numbers who were already on the commission of the peace, whose services were now lost to the country because they had not that power which the Legislature of the colony wished to give them last year. He said on rising to address the House that he had originally intended to move that this Bill be read a second time that day six months, but he would not do that. The course that he intended to pursue was this: when in committee on the Bill—if it passed its second reading, as he trusted it would, for its object was a good one—he should feel bound, very reluctantly, in one sense, to move that all the clauses of the Bill after clause two be struck out, with the view of moving other clauses in lieu thereof, leaving the law exactly as it now stood, with this one exception,—that it will repose in any two justices, instead of in a special tribunal, the power of awarding a sentence of three years' imprisonment upon native offenders. He hoped to find that the opinions of hon. members on this subject had not undergone any change since last session, and that the clauses which he hoped to introduce would commend themselves to their good judgment. It would, undoubtedly, be well to have all the Acts dealing with this question consolidated, as had been the intention of the Government in the present Bill. He believed that the Governor of the Colony and the members on the Executive bench, being men of the world, would be ready to admit that persons who had been long residing in Western Australia, and who were thoroughly acquainted with the habits and customs of its native population, persons who had been called upon to assist in the administration of the law in reference to these natives, and who were entitled to express an opinion on the subject—many of whom occupying seats in that House: he had no doubt the Government, whatever view they might themselves hold on this question, would be prepared to give due consideration to any expression of opinion on the part of the persons of experience to whom he had referred, and also to the desires of that Council. He hoped this question would not be made a test point, or a battle ground, or anything of that kind, but that the Government—if the House adopted the course which he proposed, to strike out these clauses and introduce others in their place—would see its way to accede to the wish of the House, as expressed a second time in that Council. He hoped hon. members that evening would take the opportunity of expressing most fully their opinions as to the provisions of this Bill, so that the Government shall not be in any way in the dark as to what are the feelings of the House on the subject.

Mr. WITTENOOM, while compli-

menting the Attorney General for the very clear way in which he had explained the provisions of the Bill, said unfortunately the hon. gentleman did not possess the practical knowledge of many members in that House, who were acquainted with the ways of these natives, and who consequently must necessarily know the best method of dealing with them. He was sorry to say the Bill fell far short of what he had expected, and the first part of it he had to take objection to was the concluding portion of the 4th clause, which only allowed a magistrate, a paid magistrate, to give a native two years, no matter what number of offences he had committed. This would have a very bad effect upon the natives themselves. It would seem very unfair to the untutored mind of these blacks to find that those of them who had been guilty of robberies after robberies, possibly only received the same punishment as those who had only committed one offence. Some of these men remained at large for a long time, and their depredations might have spread over a year or more, and, when at last captured, and brought before a magistrate, he could only punish them as if they had been but guilty of one offence, and, no matter how many charges were against them, he could not give them more than two years imprisonment. The native mind was very susceptible to impressions, and he was afraid when they found that the worst characters amongst them, who had been committing depredations perhaps for years, were only punished in the same degree as those who had only just committed one offence, the effect produced upon their minds would be a very bad one. The next objection he saw to the Bill was the distinction it sought to draw between the paid and the honorary magistrates. The hon. member for Gascoyne had dealt with this matter so fully and so well that little was left for him to add. He could not understand why this distinction should be drawn. What was it that made a man who happened to be entitled to write R.M. or P.M. after his name more fitted to be entrusted with power than the man who was only entitled to affix J.P. to his name? Did the mere fact of a magistrate being paid by the Government give him greater discerning powers, or render him more capable of administering justice? There was an old saying that "two heads were better than one," and he thought two honorary justices were quite as fit to be entrusted with the power which the law gave to one paid magistrate as any paid officer was. There was also another old idea, that persons in receipt of emoluments were as a rule not able to give such an unprejudiced opinion as persons who were not paid. (Several hon. members: "Oh, oh," and laughter.) In order to make his mind quite clear he would state a case in point. Not so long ago, the present Resident Magistrate on the Gascoyne was a young J.P., and could only exercise the same powers as other honorary justices, but since he had been elevated to his present position his powers had been enlarged very considerably, and he was now supposed to have wonderfully greater powers of discernment than when he was a plain justice of the peace,—greater powers of discernment than those who were much older and more experienced than him. He had only referred to this gentleman as an example, and to illustrate what he meant. If the Government were not persuaded that honorary magistrates would carry out the law fairly and equitably they should be struck off the commission. These gentlemen must have had the confidence of the Government at one time, otherwise they would not have been appointed, and it was a very poor compliment to them now to say, as this Bill did, in effect, that the Government could not trust them with the same powers as their own magistrates. Even if the Government had any grounds for doubting the ability of the honorary justices, and of doubting whether they could repose this much confidence in them, this Bill provided a safeguard against any injustice being done, beause it required a report of every case to be sent to the law officers of the Crown, including the whole of the depositions. No prisoner could be convicted without depositions being taken, of the fullest kind, and as these had to go before the Attorney General, that gentleman would always be able to judge whether the sentence was in accordance with the evidence, thus affording a perfect safeguard against oppression or miscarriage of justice in any way. If it should be

thought that unpaid magistrates would be still guilty of passing unjust sentences, this could only be done by falsifying the depositions, and if anyone should be of opinion that any honorary justice would descend to that sort of thing, why the sooner the better such honorary justice was struck off the roll. He had always understood that the object of the Government in appointing these justices was for the convenience of the public and to save the Government expense, but this would not be the result of the present Bill. On the contrary, it would increase the expense. There was only one paid magistrate to patrol the whole of the country from the Gascoyne to the Murchison, and this gentleman would be the only person within that vast extent of territory who could give native offenders greater punishment than nine months' imprisonment, if this Bill were passed in its present shape. Very few sheepowners would take the trouble to capture niggers who had been committing offences for any length of time, knowing, as they would know, that if they took them before a justice of the peace he could only give them nine months, and if they had to take them before the paid magistrate there was no knowing what expense and trouble and loss of time they might be put to. What was the use of giving a native nine months, up at the Gascoyne? By the time he got down to Rottnest his sentence would have almost expired, so that these niggers would have no punishment at all. But if two justices were allowed to exercise the same power as Resident Magistrates, these native offenders could be taken before them and tried at once, and sent to their destination, wherever that might be. There could be no doubt this would save a great deal of expense to the Government, while at the same time it would be a source of great convenience to the settlers themselves.

Mr. STEERE said if the hon. member for the Gascoyne had moved the rejection of the Bill, as the hon. member originally intended, he certainly should have felt called upon to support him, and thus to have got rid of such an objectionable measure; but as the hon. member had made up his mind to take a different course—which he thought was a wise one, under the circumstances, as the rejection of the present Bill precluded another measure from being introduced this session—he should be inclined to support him. The Attorney General stated there would be no change made in the law in allowing magistrates power to do alone what they are now only permitted to do when acting in conjunction with another justice, and the hon. gentleman had quoted the Act which empowered stipendiary magistrates to act in certain cases where two justices were required to act before. If he had not misunderstood the hon. gentleman he said that under the Act referred to a police magistrate or a resident magistrate could do by himself certain acts which before could only be done by a police or a resident magistrate and one other justice. According to his (Mr. Steere's) reading of the Act, it was nothing of the kind. What it said was that a police magistrate might do certain things which before could be done by two or more justices—which was a very different thing. It was never intended to allow a resident magistrate alone to do what the special tribunal created under the statute was empowered to do. It had frequently been found difficult, in small towns especially, and in districts where population was widely scattered, to get the services of two justices to deal with petty cases, and the Act referred to was passed to enable the resident magistrate to do what two justices could previously do, but it was never contemplated that the Act should give resident magistrates the powers vested by statute in a special tribunal consisting of a resident magistrate and a justice of the peace. And the Government must be well aware of this, or else why did they bring in this Bill to alter the law in that respect? Ever since he had had a seat in the House he had raised his voice against this invidious distinction, attempted to be made by the Government between the honorary justices and the paid bench. He thought the hon. member for Geraldton had given them a fair illustration of the absurdity of this distinction, when he mentioned the case of the newly-appointed magistrate for the Gascoyne, who, a few weeks ago, was only an honorary justice like himself and others. That gentleman, before he was elevated to the position of a paid magistrate was not empowered by the law to

do any more than any other honorary justice, but the very next day after his appointment he was, simply by reason of his having become a paid magistrate instead of an honorary magistrate, empowered to do more than two ordinary justices could do. Nothing could be more absurd. He himself regarded this distinction drawn by the Government between its stipendiary and its honorary justices as a great reflection, and an unfair reflection, upon the honorary magistrates of the colony. If they could not repose greater confidence in their honorary justices all he could say was that the appointment of these gentlemen to the commission was a serious reflection upon those who appointed them, for, if they were not fit to perform the duties of magistrates, they were not fit to have been appointed to the magistracy. He also thought the Bill presented another absurd anomaly. He referred to the clause which precluded magistrates from passing cumulative sentences, which certainly was a most extraordinary provision, and one which he did not think would at all have the effect contemplated by the Attorney General, namely, act as a deterrent to crime in the case of these natives. If short sentences, and concurrent sentences, were to be upheld on that ground, why not extend the same principle to all cases, to the white prisoners as well as black? He was quite sure, in his own mind, that so far from this having a deterrent effect on the native mind it would have a very prejudicial effect. The other portions of the Bill had been so fully commented upon by the hon. members for the Gascoyne and for Geraldton that he need not detain the House any longer; but he must say he thought it was rather rash on the part of the Government, knowing the feeling that existed in the House on this question, to introduce such a Bill as this and to expect it to be carried.

Mr. MARMION said there was one point which he wished particularly to refer to, and, in his mind, it was the strongest argument used by the hon. member for the Gascoyne in commenting upon the Bill. He referred to the strange distinction which was sought to be drawn between the position of a paid magistrate and an honorary magistrate, more especially in the 4th clause of the Bill. It seemed to him particularly strange that these honorary justices, while privileged to sit upon the bench with the stipendiary magistrate who was honored by this Bill with the enlarged powers already referred to, was not allowed in any way to influence the judgment of the presiding magistrate, as regards the extent of punishment which ought to be awarded. It seemed to him—in fact, it was so stated by the Attorney General—that the power now placed in the hands of an honorary justice would by this clause be taken from him. This was one of the strongest objections he had to the Bill. With regard to the question of cumulative sentences, he possibly might not go so far as those hon. members who had spoken on this subject might be inclined to go, for it certainly appeared to him that cumulative sentences might to some extent not have that effect upon the savage, the uncivilised, native mind as they were calculated to have upon civilised and more intelligent members of society who transgressed the law. The savage mind could not readily grasp the idea that a second sentence meant what it really did mean, whereas in the case of a white man he perfectly understood that it meant additional punishment. With regard to what fell from the hon. member for the Gascoyne in reference to the intricacy of the machinery created by the Bill, he cordially agreed with the hon. member. He thought that in all the Acts they passed it should be their endeavor as much as possible to simplify rather than to complicate the machinery of the law, and this Bill would certainly not have that effect. He agreed with a great deal that had fallen from the hon. member for the Gascoyne also with reference to the somewhat invidious and it appeared to him altogether unnecessary distinction sought to be drawn between the position and the powers of the honorary and of the paid magistrates, —though at the same time he was disposed to agree with some of the remarks that had fallen from the Attorney General on this subject, with regard to the supposed superior ability and legal knowledge that ought to be displayed by gentlemen occupying the position of stipendiary magistrates, for, as the Attorney General said, these gentlemen were—or should be, at least—chosen for

their posts by reason of their superior knowledge, the intelligence they had displayed, and other qualifications, which had presumably commended them to the attention of the Government as fit persons to be appointed to the position of paid magistrates. These gentlemen being paid officers under the Crown it became their sole duty to devote their attention to the study of the law, and of the duties imposed upon them by the law, in order to qualify themselves for the positions which they held as public servants paid out of public funds. He therefore was prepared to agree with the Attorney General that these gentlemen ought to possess —if they did not possess—some greater knowledge of the law than honorary justices whose time was occupied in other pursuits. At the same time, they must not forget that many honorary justices had been filling the position which they now occupied for many, many years, and had gained much experience, but who were gentlemen occupying positions in life which rendered it quite out of question for them to accept office under the Government at the small remuneration which this colony could afford to pay them for their services. The position of these men as honorary justices should not be taken as a proof that they were unfit to be entrusted with the larger powers vested in paid magistrates, either as regards their intelligence or their integrity. Under these circumstances, it certainly did appear a somewhat invidious distinction to give a stipendiary magistrate greater power than can be exercised by any two honorary justices. He should like to see this distinction wiped out. With reference to the remark made by the hon. member for Geraldton as to the transfer of a gentleman from the position of an honorary justice to that of a paid magistrate, and to the strange fact that he should in the latter capacity be allowed to exercise such increased powers by reason simply of his being a paid magistrate to-day, whereas yesterday he was only an honorary magistrate,—probably in these cases the gentlemen who were entrusted with these enlarged powers were instructed, or would in future be instructed, by the Government to apply themselves diligently to a study of the law, especially in its application to native offenders.

After a pause,

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said, as no other member rose to speak, he proposed to say a few words in reply to the arguments that had been used in the course of the debate, and he would do so as briefly as possible, merely touching upon the leading points. The hon. member for the Gascoyne, who was the first speaker, complained that the Bill reduced the punishment which a magistrate might give from three years to two, and the hon. member, as he understood him, said that even three years was not enough. Yet, in spite of the fact that for the last twenty years magistrates had exercised the power of inflicting this longer term of imprisonment, they were told that the native establishment at Rottnest was more full of prisoners at this moment than it ever had been. He should have thought that was the strongest argument which the hon. member could have used to show that, instead of these severe sentences of three and (as he was told) of six, and in some cases of nine years, acting as a deterrent, in the case of these natives, they appeared to have quite a contrary effect, and that more native offences were committed now than ever. The hon. member then said it was a hard thing, if two or three offences were committed by a native, he should not be allowed to get more than two years. If a magistrate thought this, if he thought a sentence of two years was inadequate, his course was a very simple one. Let him send the case to the quarter sessions, and then the honorary justices of whom they had heard so much would be associated with the magistrate, and would have power to deal with the offence at that tribunal. It was only a question of tribunal. The Act provided that all offences shall be awarded proper punishment, but that the degree of punishment to be inflicted must depend upon the gravity of the offence and the powers of the tribunal where the offender was tried. The next argument used was that it was never intended by the Act of 1863 that resident magistrates acting alone should have the power to give a native three years. He did not know what was intended; as a lawyer he was not accustomed to inquire what was intended by an Act of Parliament; what they had to do in construing

an Act was to read and interpret it as they found it, and the Act referred to said that a resident magistrate shall have power to do what he and another justice had power to do before. [Mr. S. H. Parker: No.] The hon. member said no. He would read the Act itself: "it shall be lawful for any resident "magistrate to do alone any act which, "by any law now in force, is or shall be di- "rected to be done by more than one "justice." [Mr. Parker: That's a very different thing.] He said it again —[Mr. Parker: The hon. gentleman did not say that before.] If he had not quoted the words of the Act, in the first instance, it was because he had not the Act before him. The Act said, "which by any law now in force." That was in 1863. Now let us see if there was any law then in force that directed "more than one justice" to deal with these cases. The original Act (12th Vic. No. 18), which gave this power, said, "it shall be "lawful for two or more justices one of "them being a resident magistrate to "try, etc."—and, he would ask, what could be clearer than that? It was so clear that for the last twenty years it had been going on in this colony, and no one had ever yet moved a *habeas corpus* to test its legality. Magistrates for twenty years had been acting on it, and now, because it suited an argument, we were told that magistrates had no power to do this. The words of the Act were so clear that he would not further refer to them. They were so clear that no one could possibly mistake their meaning who applied his mind to them. By the original Act two justices, one of whom must be a magistrate, could sentence a native to a certain term of imprisonment, and by a subsequent Act it was made lawful for a resident magistrate to do alone that which required more than one justice to do before. If any person said that did not meet the case, all he could say was he could not understand the mind of that person. It was further said that the present Bill degraded honorary justices—[Mr. Brown: Hear, hear]—that this Bill "created," was the word, an invidious distinction. [Mr. Brown: Hear, hear.] Was a justice "degraded" because he could not exercise the same power as the Supreme Court? [Mr. Brown: No.] Or the same power as the court of quarter sessions? [Mr. Brown: No.] Then why was he "degraded" because he could not exercise the same power as a resident magistrate? [Mr. Brown: Summary jurisdiction.] Were all in authority to exercise the same power? Were all men equal? Were the knowledge and the powers of all men equal? If so, he had nothing more to say. This Act recognised a difference, but it made no invidious distinction. What they said was this: we shall have a man whom we shall entrust with certain powers, who shall devote his time to a certain class of duties, who shall be paid for performing those duties, and who shall be selected for his capacity to discharge them. And if, in the past, there had been appointments made that could be taken exception to, that was not an argument against the system, but against the appointment. This Bill "created" no distinction. It simply carried on the law where it found it. [Mr. Brown: No.] Let the hon. member show him where it gave to a magistrate any other power besides what he was given in the Acts he had mentioned. So far from increasing a magistrate's powers it limited them, from three years to two, while, on the other hand, it brought up the powers of justices from six months to nine,—for, whether they liked it or not, resident magistrates, as he had already said, had been giving these sentences of three years for the past twenty years, and they had never stopped it. They talked about it now, but why did'nt they stop it before? It was also said that the Bill complicated the law and rendered it more intricate. All he could say was, if they found in one Act what they had to search for in five before, and called that complication, he had nothing more to say. He defied any man to take up a clause of the Act—or any child—and not understand what it meant. [Mr. Brown: Oh!] When they went into committee on the Bill, he ventured to say they would find no hon. member who could not understand every clause in it; he might not like the clause, but he could not say he did not understand it. Hon. members evidently understood it that evening, or they would not have pointed out why they did not like it. How could they do that, if they did not understand it? He had

now, so far as present necessity required, disposed of the hon. member for the Gascoyne. He would next refer for a moment to the arguments of the hon. member for Geraldton, who said it was very hard that a native who had been committing crimes on and off for a year, all over a district, should when captured have no more than two years. This Act provided nothing of the kind. If a magistrate considered two years insufficient for such a native, all he had to do was to commit him to the quarter sessions, where they could give him any punishment, short of death itself, suitable to his offence or his offences. The magistrate simply remitted him to another tribunal, vested with larger powers, and consisting of himself and as many honorary justices as chose to associate themselves with him, and this tribunal could give him any sentence they liked, short of the extreme penalty of the law. And that was what hon. gentlemen called "degrading" their honorary justices. The hon. member further said that a person who is paid for performing his duties could not be expected to do a thing so well as the man who was not paid. He thought he should leave that argument to take care of itself. The hon. member further said it was very simple questions that had to be dealt with under this Act, which we were told merely related to the criminal law in its application to natives. All he had to say was, it had been his duty, he might say his painful duty, during a great portion of his professional career, to devote his attention to the administration of the criminal law, and he found it by no means—and very much better men than him had found it by no means—such a simple thing. He dared say it was a very simple thing for some gentlemen to sit upon an aboriginal native—a very simple thing indeed. But let him tell the hon. member that to do justice, under the criminal law, was by no means such a simple thing. He did not care what the intentions of a man might be—his intentions might be good, he would not deny that—but for a man to possess such a practical acquaintance with the principles of the criminal law as to enable him at once to apply those principles fairly and with a judicial mind was another thing. The hon. member said further it was absurd that a man who is only a justice, with limited powers, one day, should be a magistrate with greater powers the next day. Was it absurd, then, that the man who was only a plain lawyer one day should be a judge the next? Was it absurd that a man who was only a barrister to-day should be on the woolsack to-morrow? There was no class of employment into which a man must not, some day or other, enter for the first time. If it was absurd, then, in the case of a justice made a magistrate, it was absurd in all cases, and we should never be justified in promoting any man, for he would be the same man to-morrow as he was to-day, and the same man to-day as he was yesterday. He thought he would leave that argument too. One of the other great objections to the Bill was that a term of three years was too little for a magistrate to be allowed to give. Upon that point all he had got to say was this: there were other colonies in Australia who had to deal with the native question,—large colonies, too. If they looked at the map and observed the space that Queensland and South Australia covered, and noticed the extent of the outlying districts where the settlers had to deal with natives, they would find that those two colonies constituted next to this the greatest portion of the Australian continent, and together were even larger than this colony—they were colonies that had been administered for many years by men, he presumed, as competent to deal with these matters as the Legislature of Western Australia; and when he was told that three years was not enough for a magistrate dealing summarily with a native prisoner to be allowed to give, he begged to inform the House that in Queensland and South Australia one year was the limit which any justice or magistrate could give a native. He thought it was time the people of Western Australia, if they had not considered it before, should now consider that here was an Act of Parliament passed many years ago, when the settlers had more difficulties to contend with in dealing with natives than now, an Act giving magistrates dealing summarily with native offenders the power to give them three years—three times more than could be given in the colonies he had named—and whether it was not time we

should re-consider the matter, and say whether the power to give two years was not ample power to give any individual, or even two individuals, sitting by themselves, in distant parts of the colony, without public opinion to bring to bear upon them, and without a jury of their fellow-men to assist them. This, as he had already said, would be double the power given to magistrates in any other Australian colony, and he ventured to think that the House, when it came to consider the matter thoroughly, would agree with him that the power given by this Bill was ample power. [Mr. Brown: No.]

Mr. S. H. PARKER then rose to address the House.

The ATTORNEY GENERAL (Hon. A. P. Hensman) asked whether it was not against the rules of the House that an hon. member should be allowed to speak at this stage of the debate, after the mover of the motion for the second reading of the Bill had replied. Before doing so, he had paused for a considerable time in order to see whether any other member was going to address the House, and, as no one appeared to wish to do so, he had risen, as he said at the time, to reply to the arguments which had been urged in opposition to the Bill.

Mr. S. H. PARKER: The hon. gentleman is entirely out of order, and if he were acquainted with the rules of the House he would have known so. I should not have deemed it worth while to say anything on this Bill, or to reply to the arguments of the hon. gentleman, only for the fact that the hon. gentleman went out of his way to adopt a course which is not usual in this House, or in any other legislative assembly,—that is, to attribute motives. I am happy to say that, in the past, we have not been in the habit of attributing motives in this House. We have taken it for granted that a man, whatever his views may be, is actuated by honest convictions. We are not in the habit of saying that an hon. member of this House uses an argument simply because it suits his purpose for the time being to use such an argument, for, I take it, that is virtually attributing a motive. [The Attorney General, deprecatingly: No, no.] The hon. and learned gentleman may say "no, no," but I say it is attributing a most unworthy motive. It is virtually saying that had it not suited an hon. member to use a certain argument he would have been of a contrary way of thinking. It means nothing more or less than this,—that there is nothing at all in the argument, but inasmuch as it suits the purpose of the hon. member to use it, he does so. That, I say, is attributing a motive, and an unworthy motive. [The Attorney General: No, no.] That is the plain meaning of the words. With regard to what the hon. and learned gentleman said, that, in looking at the meaning of any Act of Parliament, we are not to inquire into what may have been the intention, I agree with him there. What we have to consider is what are the words of the statute itself, and I am glad to find that the hon. and learned gentleman now admits and recognises this. The other evening, when discussing the question of over-expenditure and the evasion of the provisions of the Audit Act, the hon. gentleman said, the intention of the late Government having been good, what did it matter as to this breach of the Act? The intention of those who spent the money was a good intention, and—

The ATTORNEY GENERAL (Hon. A. P. Hensman): Is it in order to refer to a past debate in this House? It is not so in the House of Commons.

Mr. SPEAKER: Nor is it here, sir.

Mr. PARKER, continuing, said: I am very glad to find I can say this,—that the hon. and learned gentleman now recognises that we have nothing to do with what may have been the intention of a man, and that what we have to consider is whether the law is carried out or not. We are not to look at his intentions, or to gauge his motives, but to look at the Act itself. I was perfectly astonished to hear the argument made use of by the Attorney General, with regard to these old Acts,—perfectly astonished. When the hon. and learned gentleman stated that a resident magistrate had power to give a native three years, I imagined the hon. gentleman was merely relying upon his memory, and that he had been misled. But when the hon. gentleman read to us the words of the statute itself, and still maintained that a resident magistrate had this power, I became perfectly astonished. He said the Act of 1863 gave power to a resident or police

magistrate alone to do what a resident magistrate and another justice had power to do before. There is no Act in force in this colony that gives a resident magistrate acting alone any such power. The Act merely gives authority to a resident magistrate to do what was required to be done before by more than one justice, one of whom shall be a resident magistrate. The Legislature, in the early days of the colony, thought it wise to give power to justices to deal with native cases to the extent of sentencing offenders to six months; therefore, in 1849 they gave this power to any two justices, conditionally upon one of them being a resident magistrate. They, in fact, constituted a special tribunal for this purpose, and this tribunal had the power to award sentences of six months and no more. Subsequently, the Legislature extended the power of this special tribunal, and authorised it to give three years; but it never, as the Attorney General says it did, empowered a resident magistrate alone to exercise this power. The hon. and learned gentleman said he could not understand the state of the man's mind who could not see the meaning of the Act of Parliament referred to. I certainly cannot understand how the hon. gentleman himself could have put such a meaning on it as he did. The hon. gentleman said it was the law of the land, because it had been done for the last twenty years. Surely it does not make a thing legal now because it has been illegal for the past twenty years. The hon. gentleman twitted us with having allowed it to be done, all this time, and that no one had ever moved for a *habeas corpus*. And when he twitted us with this, the hon. gentleman, I noticed, looked straight at me. I don't know whether the hon. and learned gentleman thinks I am such a philanthropic individual that, if I thought a blackfellow had been sentenced to three years when he should only have received three months, I was going to rush over to Rottnest, of my own mere motion as we say, and to move for a *habeas corpus*. Lawyers, as a rule, do not go to work unless instructed, and I don't think the hon. gentleman himself will be inclined to take up work of this nature without being instructed. I don't suppose the hon. gentleman will be moved to do it by philanthropic considerations. He will not go rushing about the country, like a legal Don Quixote, searching for wrongs to redress. I cannot imagine a greater curse for any country than to be afflicted with the presence of a legal man going about, here and there, seeking for grievances to be redressed, and searching out for a cause of action against magistrates. So far as I am concerned, I may mention that three or four years ago, when I happened to be over at Rottnest, in Governor Ord's time, I pointed out to Sir Harry Ord that a great number of the convictions of natives then imprisoned on the island were illegal, and the Governor laid the matter before the Crown law officers, with the result that a considerable number of those natives were immediately released from custody. In one case a magistrate had actually committed a man for three years for murder, which of course was utterly illegal, and the man had served about two years before I happened to point it out, and before he was let off. We ought to recognise this fact, in dealing with these native questions,—that it is the privilege of all persons living under the British constitution to be tried by a jury of his countrymen, except for the most minor offences. It is true the Legislature of this colony thought it right and proper, and thought it wise, to adopt class legislation in dealing with our aboriginal natives, but it is a question, and I think it is a very grave question, whether that was a right course to adopt. There is no doubt, however, that the only reason, the sole excuse, for resorting to class legislation, was simply with the object of saving public expense. It could not have been for any other reason, and, that being the case, it surely is absurd for the Attorney General to say that if a magistrate does not think two years is long enough to give a native he can send him to the quarter sessions. That means perhaps £200 or £300. If so, we had better revert to the old law that existed before 1849, and place the natives on exactly the same footing as the whites, and let them be tried by a jury. The Attorney General said he defied anyone to point out anything intricate, or which a child could not understand, in this Bill. I will point out one thing, which I myself have taken a

great deal of trouble to understand, and I think it is impossible to do so unless you strike out the meaning of one clause altogether. The 13th clause of the Bill provides that it shall be lawful for the Governor to appoint "any person" to act as a magistrate in any district or part of the colony, and that this person during the term of his appointment shall exercise every power, not only under this Act but also in all matters, both civil and criminal, within the jurisdiction of a magistrate. The third clause provides that the word "magistrate," as used in this Act, shall mean a Government resident, or a resident magistrate, or a police magistrate, and shall not be taken to mean any other justice of the peace. How, then, can the Governor appoint "any other person" as a magistrate, under this Act? It would be simply impossible. There is another thing I complain of in this Bill, and I do so in the interest of the natives themselves. In the old Acts there was no such a clause as is here. The 11th clause recites that nothing informally done under this Act shall be held to be bad for any defect of form, and that no magistrate or justice, nor any person acting under his or their authority or direction, shall be liable to answer at law for any act done in pursuance of the Act, unless—and that is the point I wish to refer to—it is "proved that such act was done from wilful and corrupt motives." That is absolutely taking away from a native any redress he may have for any wrongful or illegal act on the part of the justices who tried him.

The ATTORNEY GENERAL (Hon. A. P. Hensman): The same provision appears in the first Act.

Mr. PARKER: Will the hon. gentleman point it out to me?

The ATTORNEY GENERAL (Hon. A. P. Hensman): Section 12 of the Act of 1849.

Mr. PARKER: I thank the hon. gentleman. I was not aware of it. It is a novel law to me, and I was astonished to find such a provision in the Bill. I think it is a most unfair provision. You not only resort to class legislation in dealing with these natives but you take away from them every chance of redress, in the event of their having been unlawfully dealt with. A magistrate may act in the most high-handed manner, he may act in a most illegal manner, he may convict a native without a tittle of evidence against him, and, so long as he professes to have acted *bonâ fide*, the native has no redress whatever. It would be absolutely impossible to "prove" corrupt motives against a magistrate, and the native would be helpless. Would we allow such a law to stand in the case of a white man? I do not suppose any magistrate *would* act corruptly, but he may act in ignorance of the law, and commit a gross wrong, and I submit this House has no right whatever to take away from a native the remedy which is given to every civilised subject of the Crown.

The ATTORNEY GENERAL (Hon. A. P. Hensman): And yet you never found it out before.

Mr. PARKER, continuing, said: The hon. gentleman, in reply to the objection that the Bill draws a distinction between the power vested in paid magistrates and in honorary justices, said that the stipendiary magistrates ought to know more than the honorary magistrates. I quite admit that they ought to do. But as to their obtaining this superior knowledge from law books, I can assure the hon. gentleman that the Government provide them with no books whatever, and it has often astonished me to find how they succeed in administering the law so well as they do in the majority of cases, without the aid of any law books. So far as this Gascoyne business is concerned—and I presume the Bill has been brought in principally because of the disturbances which have of late happened at the Gascoyne and the Murchison, where by far the majority of native convictions have lately occurred—it is only fair, then, to bear in mind who the resident magistrate appointed to these districts is. He is quite a junior justice of the peace, who was only lately raised to the position; and, until quite recently at any rate, I know he was not provided with even a copy of the local statutes. So late as May last, on the occasion of the first election at the Gascoyne, this gentleman had not even a legislative enactment to

guide him in the conduct of the election. Is it, then, to be wondered at that hon. members should express surprise, and ask why this magistrate, for instance, should be empowered to give a native two years, when other justices practically acquainted with the law, older and more experienced, can only give him six months. Is it right for this House to support the Government in adopting a Bill which casts this slur upon the unpaid justices of the colony? I think not. I think hon. members will be inclined to support the announced intention of the hon. member for the Gascoyne to strike out all the clauses of the Bill and to introduce something more in accordance with the feeling of the House and the feelings of the country. The Attorney General, in referring to this subject, asked was it absurd that a man should be a plain lawyer one day and a judge the next? I would remind the hon. and learned gentleman that lawyers are of necessity trained and educated in the administration of the law, and there is nothing anomalous in promoting a practising barrister to the bench. But it is a very different thing with our magistrates. The magistrates in this colony are not trained men, as a rule. They have received no legal education, before they are appointed to the position of paid magistrates. The analogy therefore does not hold good. If I, an amateur engineer, were to be raised to the position of Commissioner of Railways or Director of Public Works to-morrow, I am sure my hon. friend opposite would resent the appointment as an indignity to his profession. (The DIRECTOR OF PUBLIC WORKS: Hear, hear). I say, then, it is a most invidious distinction which is sought to be made by this Bill between the honorary justices of the colony and the paid magistracy, both of which bodies, so far as the question of legal training goes, are merely "amateurs." The Bill is one I regret I cannot give my support to.

SIR T. COCKBURN-CAMPBELL, referring to what the Attorney General said as to the law in Queensland and South Australia, and the limited powers of magistrates in those colonies as regards native offenders, pointed out that the treatment of the blacks in Queensland differed materially from the treatment of natives by the Government of this colony. In Queensland, the blacks when they became troublesome were not dealt with by process of law but by a much more summary process, which all would regret to see introduced here; while, as regards South Australia, he understood the Government of that colony had of late been moved to enlarge the powers of magistrates in dealing with native offenders, in their Northern Territory.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) remarked that in South Australia the Government were very jealous of the rights of the aboriginal natives, and a policeman who caused the death of one would have to stand his trial for life. There was an Aborigines' Protection Society in that colony, whose efforts were directed to ameliorate the condition and to guard the rights and interests of the natives.

MR. BURGES recommended the appointment of itinerating native guardians or protectors here, to watch over the interests of natives, charged with offences. A great many who were now convicted would then get off. The hon. member instanced a case which came under his own knowledge, when some dozen or more natives were brought before the Bench of Magistrates most of whom would have been acquitted if they had a lawyer. (Mr. CROWTHER: Why did not the hon. gentleman acquit them himself, if he thought so?) It certainly would have gone against his own conscience to have sentenced them, but he was in a minority.

MR. CROWTHER was sorry to hear that the hon. gentleman had been a party to these innocent natives, black though they were, being sent to prison against his convictions. At that late hour he had not intended to say anything with reference to the Bill before the House, and, but for the statement which had just been made by his hon. friend on the nominee bench, he would have maintained a discreet silence. Now, however, that he was on his legs he might state that he thought the Government and the Council were to be congratulated on the accession of debating power which had resulted from the presence in the House of the hon. and learned gentleman in charge of the Bill

(the Attorney General), who—although he had not succeeded in persuading him to follow in his train—had certainly given proof of his being able to make the most out of any subject committed to his advocacy. So much had been said for and against the Bill, that nothing of any importance remained to be added, and, without pledging himself to any decided line when in committee on the Bill, he might state that if his feelings were put to the test that evening he should go with the hon. member for Gascoyne. The hon. gentleman in charge of the Bill argued that because a man is promoted from the position of honorary justice to that of a stipendiary magistrate, he thereby at once becomes better qualified to deal impartially with all cases that came before him for adjudication. The hon. gentleman, in support of his argument, referred to the case of a plain lawyer rising to the highest judicial office, involving the exercise of greater power and greater responsibilities. That was right enough. But the two cases were not analogous. Lawyers from their early days were trained and educated for the profession of the law, as had already been pointed out, whereas our honorary justices were not so trained,—nor were they always selected because there was any suspicion of their being possessed of any superior knowledge of the law; and, for his part, he failed to see why one of our Great Unpaid, simply by reason of his being promoted to the position of a paid magistrate, became, without any previous training whatever, more fitted to be entrusted with judicial powers, or more independent, or more upright, or in any way better able to deal with these native cases. And, without going so far as to say that the present Bill "degraded" the honorary magistracy, it certainly did, to his mind, draw an invidious distinction between that class and the paid magistracy. Whenever the Government came before the House and asked for an increased vote for any department, or anything else, the application, as a rule, was supported by very good reasons for granting it, and he thought, when they came before the House, and, in an indirect way, sought not to degrade, but somewhat to derogate from the respect due to the honorary magistracy and from the position they held in public estimation, they ought to be able to assign some very cogent reasons for so doing. The action of the Government in this matter reminded him of Pope's lines—

> A saint in crape is twice a saint in lawn;
> Wise if a bishop, but if a king,
> More wise, more just, more everything.

It was the same here. Wise if an honorary magistrate, but, if by chance raised to the position of a paid magistrate, then "more wise, more just, more everything."

The motion for the second reading of the Bill was then put and carried, on the voices.

REPLY TO MESSAGE (No. 3): *RE* SITE FOR COFFEE PALACE.

IN COMMITTEE.

Mr. S. H. PARKER, in accordance with notice, moved the following resolution: "The Council having taken into "consideration His Excellency the Governor's Message No. 3, as also Mr. "Cooper's application and the memorandum of the Acting Commissioner of "Railways, beg most respectfully, in "reply, to assure His Excellency of their "desire to co-operate with the Government in furthering the erection of a "Coffee Palace in the city. At the same "time it appears inadvisable to alienate "the parcel of land applied for, which is "unsuitable for the proposed object, and "may probably be required for the Railway when the line is doubled. The "Council will be glad to learn that His "Excellency has been able to assist the "very laudable object in view by the "grant of some other parcel of land to "the promoters of the Coffee Palace." The hon. member said that so much had been heard of late about the temperance question that he did not propose to inflict a temperance lecture upon the House, especially as he understood all the occupants of the Treasury Bench were thoroughly imbued with temperance principles.

Mr. RANDELL said he had no very great sympathy with the proposal to grant a piece of land to this Coffee Palace Company, which, he understood, was intended to be formed, and to conduct its operations, on purely commercial principles. He thought the Government was inclined to go too far in extending

eleemosynary aid towards objects and movements which could do well without such aid, and rely upon the spontaneous flow of public liberality. If this grant of land was going to be burdened with the usual conditions attached to grants of land made to religious and other public bodies, namely, that the land shall be devoted solely to the purpose for which it was granted, he was afraid the Coffee Palace movement would prove a failure. At the same time he did not know that any harm could arise from the mere expression of opinion contained in the reply before the committee: he quite agreed that the parcel of land originally applied for was unsuitable for the proposed object.

MR. MARMION had no intention to offer any opposition to the resolution, though he thought that, upon many grounds, good arguments might be brought forward against it. He trusted, for one thing, that the Government in making this grant of land—provided they could get a suitable piece of ground for the purpose—would insert as one of the conditions of the agreement, as it was well known the grant was made in the interests of the temperance movement, that should any building be erected upon it, it shall be a building to be used simply and solely for the purposes of a Coffee Palace. This condition could not be considered by the promoters of the movement as in any way an unfair condition, as their grounds for asking for this piece of land was avowedly to build upon it a Coffee Palace, and it was proposed to give it to them for that purpose, and for that purpose only. He therefore hoped the Government would make it a *sine quâ non* condition with the promoters that, if they got a piece of land, it must be devoted to the specific purpose for which it was granted.

THE COLONIAL SECRETARY (Hon. M. Fraser) said, supposing a site were to be found which would be suitable for the object in view—which he doubted—he presumed the usual condition would be insisted upon, that the land granted for a particular purpose must be applied to that purpose. That had been the practice followed in other cases, where the Government had granted lands for public purposes, and he saw no reason why there should be a departure from that practice in this instance. At the same time, he was very doubtful whether a site could be obtained in Perth, which would be suitable for the purpose in view.

MR. S. H. PARKER said if such a condition as that referred to were to be imposed, the grant would simply be utterly useless. He thought the names of the Directors, which appeared on the company's prospectus, were a sufficient guarantee that the land would be devoted to the purpose it was wanted for, without making it a condition of the deed of grant. Although the company was started on strictly commercial bases, it was not likely that the project would turn out a reproductive undertaking, from a financial point of view, for some years to come at any rate. The majority of the shares would be taken up more for the purpose of promoting the cause of temperance than in the expectation of receiving a dividend. For his own part, he hoped the company would be successfully floated, even without Government aid; but, if the promoters did get a piece of land from the Government, their object would be to build upon it, so as to enable them to raise a further sum of money by way of mortgage. But if the grant were saddled with the condition referred to, the company would not be able to raise any money upon it, for it was plain they could not mortgage a piece of land, without the right of sale, or if it were so tied up that nothing could be done with it. He agreed with the Colonial Secretary that probably there was no piece of Government land in Perth suitable as a site for a Coffee Palace, and if the company could not have land on such conditions that they might be able to sell it and devote the proceeds to the purchase of a private piece of land, suitable for their purpose, they might as well be without it. It was suggested by the Governor himself, as regards one piece of land, that if it were granted for a Coffee Palace the only way it could be done was by recouping the Commissioner of Crown Lands the value of the land, which was estimated at £700; so that, according to His Excellency's idea, the Legislature was to be asked to vote that sum for this purpose. If that were done

there would be no conditions attached; the land would be simply purchased from the Commissioner, and the company would become the owners of it in fee simple.

Mr. MARMION said the hon. member for Perth, who had brought forward the resolution, had by what had just fallen from him shown how very little faith the hon. member himself really had in this movement. If this Coffee Palace was going to do all the promoters anticipated from it—if the movement was going to be attended with the wonderful success they were told it was—surely the promoters need not be alarmed at a condition which secured the land in perpetuity for the object in view, and no other object. If it should turn out that the expectations of the promoters were not realised—if, in other words, the thing did not pay, what would be the result? Why this land would be thrown into the market, and in all probability the building upon it, instead of being used as a Coffee Palace, would be converted into a public house. He (Mr. Marmion) was as anxious as anyone that this movement should prove a success, but he must say he had very serious apprehensions upon that point.

Mr. CROWTHER presumed that, if the Perth people obtained a grant of land from the Government for a Coffee Palace, to commemorate Mr. Matthew Burnett's visit, the Fremantle people would be equally entitled to a grant of land for a Sailor's Home, and, when Mr. Burnett got as far as Geraldton, the people of the North would want a grant of land for something else—perhaps a Reformatory. Every district in the colony would be crying out for a grant of land, for some equally good purpose, and, if the Government acceded to the request of the citizens of Perth, they could not consistently deny the requests of the people of other towns. He did not think the House or the Government would be justified in giving away grants of land, indiscriminately, North, South, East, and West, for Coffee Palaces, or anything of the sort. At any rate, if this address were agreed to, it should be on the distinct understanding that the land shall not upon any consideration be alienated from the purpose it was asked for.

The resolution was then put and adopted.

CATTLE TRESPASS ACT, 1882, AMENDMENT BILL.

Mr. WITTENOOM moved the second reading of a Bill to amend the Cattle Trespass, Fencing, and Impounding Act, 1882. The hon. member said the consolidated Act passed last session was made as perfect as possible—so it was considered at the time; but complaints had been made to him by his constituents about some portions of the Act, which they considered to be defective. There appeared to be some doubt as to the meaning of the word "cattle" in the second clause, as the clause now stood; and the present Bill sought to make it clearer what was meant by "great cattle" and "small cattle." But if he had the assurance of the Attorney General that there was no necessity for this definition, he should not press this part of the Bill. With regard to the next clause, its object was to amend the third sub-section of clause 16 of the present Act by making it more clear, and by empowering persons appointed by a municipality to impound cattle found trespassing. The impression at present was that it was only a police constable who could do this, under the Act. The third clause of the Bill repealed the 30th section of the present Act—which was the section defining the meaning of the term "sufficient fence"; and the fourth clause was intended to replace the repealed section. This fourth clause was, in reality, the main clause of the Bill, and embodied its most important principle. Under the Act now in force the term sufficient fence meant a fence that would resist the trespass of great and small stock, including sheep. Now it was not every man who owned sheep, or who had occasion to keep sheep, and, although a farmer might fence his land with a fence that would keep out horses or cattle, unless the fence was also a sufficient fence to resist the trespass of sheep, he could not recover damage for any trespass committed, by cattle or horses, any more than if his land had not been fenced at all. This came very hard upon many farmers, who suffered through the trespass of horses and cattle in their corn-fields. The amend-

ment he proposed to make was this: that the term "sufficient fence," in the case of trespass by great cattle, shall mean a sufficient fence to resist the trespass of such cattle; and that in the case of trespass by small cattle the term shall mean such a fence as may reasonably be deemed sufficient to resist the trespass of small cattle. If this were done the law would be fair towards all: the man who had a fence sufficient to resist horses and cattle only, could only recover for trespass committed by horses and cattle, but the man whose fence could be reasonably regarded as sufficient to resist the trespass of sheep as well as horses and cattle would be in a position to recover for damage committed by great or small cattle. In every other case these words shall be constructed to mean what they meant now.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he did not quite understand the hon. member's elucidation of the objects of the Bill. He presumed, however, that the hon. member conceived that the section of the present Act defining what is meant by cattle, within the meaning of the Act, was not sufficiently explicit; but it appeared to him very clear. It said "the word 'cattle' shall include the several animals mentioned in the second schedule," and, on turning to the schedule, he found a description given of what constituted "great cattle" and what constituted "small cattle." As to the second clause of the Bill, that also, it appeared to him, dealt with a matter which was already perfectly clear. So far as he had read the Act which it was proposed to amend, certain persons were empowered to impound cattle. He took it that, apart from this Act, cattle found trespassing might be impounded—that was part of the common law of the land. Anyone could do that.

MR. WITTENOOM: I am quite willing to withdraw that part of the Bill, if the hon. gentleman says that.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) did not think there could be any difficulty on that point. With regard to the 4th section of the Bill, which the hon. member said was the main clause, and which proposed to amend the present Act as regards the meaning of a "sufficient fence,"—the way he understood the Act was this. By section 28 it was incumbent upon the owners of land to put up a sufficient fence around their land to exclude cattle, and, if the owner of the land did not do so, he could not claim damages in respect of trespass. That was a very reasonable provision. The question of what constituted a sufficient fence varied according to circumstances; but could a man be said to have put up a sufficient fence if it did not keep out sheep, but only horses and cattle? If he thought there was any real ground for complaint, if he conceived there was any real grievance, he should gladly join with the hon. member in remedying it.

MR. CROWTHER pointed out the difficult position in which the middle man would be, who had a small cattle fence on one side and a great cattle fence on the other side of him, to meet existing circumstances. His neighbor on the side of the great cattle fence might take it into his head to keep sheep, in which case the great cattle fence would not be a "sufficient fence" within the meaning of the Act.

MR. BROWN was inclined to think that the intention of the Bill was a good one, and a most valuable one, and that it would be a loss if the House were to refuse to agree to its second reading. As to the common law, that only applied to trespass upon a man's own land: people had no right under the common law to impound cattle trespassing on the lands of others, and therefore it was that it had been deemed desirable to give policemen power to enter upon any person's land where stock trespassed; and what the hon. member for Geraldton wanted was that not only should policemen alone be vested with this power but also any other person whom the Municipal Council might duly appoint in that behalf. At present Municipal Councils had no power whatever to send a man on anybody's private land to impound cattle trespassing. As to the 4th section of the Bill, he quite sympathised with the hon. member's desire that any person who had a sufficient fence around his crops to resist the trespass of great cattle should be entitled to claim damages in respect of trespass committed by large stock. He could not do that now, because a sufficient fence within the meaning of the

present Act was a fence capable of resisting both cattle and sheep.

The COLONIAL SECRETARY (Hon. M. Fraser) said when he recollected the laborious work of last session in connection with the consolidation and amendment of the law on this subject, he thought, apart from any other ground, it would be impolitic to proceed at once to undo what the House had taken so much pains to do so recently—more especially as the amendments now proposed were only intended to meet the requirements of one particular district. It might be said that the circumstances of the various districts of the colony varied in this as in other respects, and that what might be deemed a sufficient fence in one district was not a sufficient fence in another district; and no doubt it was so. But it appeared to him that in dealing with a question like this, they must endeavor to put an interpretation upon the Act that would meet the circumstances of the colony generally, and not the peculiar requirements of any particular district. Apart from this, he did not think it was expedient, at this time, for the House to seek to undo that which had been thoroughly done last session. He thought it was very questionable whether the proposed amendments would do any good generally,—although possibly they might be acceptable in the district which the hon. member who brought in the Bill represented. But they were there to legislate for the whole colony, and not for any particular part of it.

The motion for the second reading of the Bill was then put and negatived, on the voices.

BOAT LICENSING BILL.

Read a third time and passed.

FREMANTLE GRAMMAR SCHOOL BILL.

This Bill passed through committee without discussion or amendment.

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

LEGISLATIVE COUNCIL,

Monday, 6th August, 1883.

Colonial Surgeon's Report on condition Native Prisoners at Rottnest—Repairs of Government House—Message (No. 13): Roads Blackwood District—Message (No. 14): Despatches re Immigration; Irish and Maltese—Bunbury Court-house—Land held by Timber Companies in Wellington District—Fencing Government reserves in the city of Perth—Volunteer Bill: in committee—Election of Committee of Advice under Audit Act—Eastern Railway Terminus Bill: referred to Select Committee—Pearl Shell Fishery Regulation Bill: second reading—Exemption of Justices from Juries Bill: second reading—Reply to Message (No. 12) re Appointment of Puisne Judge—Supplementary Estimates: further consideration of—Adjournment.

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

Prayers.

REPORT OF COLONIAL SURGEON ON CONDITION NATIVE PRISONERS.

The COLONIAL SECRETARY (Hon. M. Fraser) laid upon the table the Colonial Surgeon's Report on the condition of Native Prisoners at Rottnest, and, in doing so, stated that after this session it was the intention of His Excellency the Governor to appoint a Commission to inquire into the state of Rottnest Prison, and also into the whole question of the safe keeping, treatment, and employment of our Native Prisoners. His Excellency would appoint the Commission at once; but that, as a visit of some duration to Rottnest would be necessary, and as he hoped to have the services of some of the members of the Legislative Council on the Commission, it seemed desirable to wait till the close of the session.

REPAIRS TO GOVERNMENT HOUSE.

The COLONIAL SECRETARY (Hon. M. Fraser), with leave without notice, moved that a committee be appointed to visit Government House, to consider the report of a committee thereon, and to advise what expenditure should be provided in connection with the house and grounds on the Estimates for 1884; and that such committee consist of Mr. Steere, Sir T. Cockburn-Campbell, Mr. S. H. Parker, Mr. Wittenoom, and Mr. Grant.

Mr. BROWN said he was not cognisant of the report of any committee, nor of the appointment of any committee,