

Mr. STEERE moved, for reasons he had given, that after the words "prescribed time" the words "two months" be inserted.

Mr. LOGUE moved the insertion of the words "without reasonable cause"—so that with that condition a trustee could not always be adjudged guilty of contempt of court.

The COLONIAL SECRETARY (Hon. F. P. Barlee) deemed the fears of the hon. member chimerical.

The SPEAKER said the Bill was an excellent one, and it should be passed with as few amendments as possible.

The ATTORNEY GENERAL (Hon. R. J. Walcott) could not but view the fears of trustees, who had done their duty, being punished, groundless.

Mr. LOGUE could see no objection to the insertion of the words he had mentioned.

Mr. BROWN was in favor of the amendment of the hon. member for Geraldton.

Mr. STEERE would not withdraw his motion, if contempt of court was definable.

After a few observations from the ATTORNEY GENERAL, Mr. SHENTON, and Mr. LOGUE, the amendment of that gentleman was put and agreed to.

Clauses, as amended, agreed to.

Bill reported, with amendments.

FRAUDULENT DEBTORS BILL.

Second Reading.

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

The Bill was read a second time.

In Committee.

Mr. SHENTON suggested that Act 20 Victoria No. 9, should not be repealed.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that it be considered at a future time.

Motion agreed to.

Progress reported, and leave obtained to sit again.

LUNACY BILL.

Second Reading.

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

The Bill was read a second time.

In Committee.

Clauses 1 to 11 agreed to.

Progress reported, and leave obtained to sit again.

The Council adjourned at 11.15 p.m.

LEGISLATIVE COUNCIL,

Monday, 19th December, 1870.

Swearing in of Member—Bankruptcy and Insolvency Bill—Railway and Telegraph Bill; first reading—Land Regulations: select committee—Loan—Fraudulent Debtors Bill: in committee—Lunacy Bill: in committee—Public Pound Bill, 1861: second reading—Capital Punishment Bill: second reading: in committee—Electro-Magnetic Telegraph Company Bill: second reading: in committee—Sale of Fermented and Spirituous Liquors Bill: second reading—Repeal of License to Kill Kangaroos Bill: second reading: in committee—Third Readings—Trespass by Herds of Wild Horses and Cattle: select committee report.

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

SWEARING IN OF MEMBER.

The SPEAKER administered the Oath of Allegiance to the new Surveyor General (Hon. M. Fraser), who thereupon took his seat.

BANKRUPTCY AND INSOLVENCY BILL.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that before proceeding to the order of the day he would refer to what took place in the House on Friday last, during the discussion on the Bankruptcy Bill. Since then he had been assured by his honorable friend the Speaker that what he had said that day respecting the Chief Justice was not intended in any way to reflect upon His Honor. He was quite ready to accept that assurance, which was satisfactory. Under a sense of duty to the Government, and his position in the House, he felt called upon to make the remarks he had, and nothing was more painful to him than to wound the feelings of his honorable friend. Having regard to his duty to the Government, and the dignity of the House, he was sorry any hasty words had fallen from him.

The SPEAKER was certainly much astonished at the Hon. the Colonial Secretary's remarks, and so were the members of the House, as he had made no reference whatever to the Chief Justice on Friday; with the explanation given by the Hon. the Colonial Secretary, he was willing that the affair be entirely forgotten.

RAILWAY AND TELEGRAPH BILL.

First Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved for leave to bring in a Bill to make provision for the more effectual protection of railways and electric telegraphs.

The Bill was read a first time.

LAND REGULATIONS.

Select Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved that a select committee be appointed for the purpose of considering and reporting to the Council whether any, and if so, what alterations are required in the existing Land Regulations of this colony. That such committee be appointed with power to call for papers, persons, and reports, in the manner laid down in Standing Order No. 71. That the following members form the committee:—Mr. Brown, Mr. Drummond, Mr. Monger, Mr. Moore, Mr. Phillips, and Mr. Steere; and further moved that the name of the Hon. M. Fraser be added to the select committee.

Question put and passed.

LOAN.

The COLONIAL SECRETARY (Hon. F. P. Barlee) placed on the table a despatch of His Excellency the Governor, dated 16th August, 1870, relative to a loan, and the Secretary of State's reply thereto, dated 2nd November, 1870. He asked the Clerk to read them for the information of the House.

The CLERK then read the despatch and the reply thereto, as follows:—

Government House, Perth,
16th August, 1870.

My Lord,—In my despatch No. 44, dated 29th March, 1870, I laid before your Lordship a report by Mr. Doyne, C. E., regarding Harbor Improvements at Fremantle and Rockingham, with recommendations made by him with a view to the development of the timber trade.

2. I then indicated my belief that much that he proposed might be more fitly carried out by private enterprise, were inducements offered; and further consideration has matured my conviction that it would be unadvisable to borrow so large a sum of money, exhaust the resources of the whole colony, and neglect actually existing interests in order to give effect to a scheme most promising indeed, but the success of which is not reduced to a certainty.

3. There are many public works, not only at Fremantle, but in other parts of the colony, which now occupy my attention, and I have taken steps to procure the best obtainable information regarding the most modern and inexpensive system of transit and transport, and other questions connected with public works, being aware that at the next session of the Legislature a very

great general desire will be manifested to raise a loan for that purpose.

4. I do not now propose to lay before your Lordship a scheme of such works which I think would advance the colony, and add to its revenue; firstly, because it may be modified by the knowledge I am now in process of acquiring; and moreover, because your Lordship will, I think, agree with me, that the representatives of the people should have the greatest voice in a matter so deeply affecting their interests and their future prosperity.

5. So long, however, as the Imperial Government retains any direct control over the internal affairs of this country, it will doubtless closely scrutinize its financial policy, and check any action which may appear likely to compromise or embarrass its future.

6. I am therefore anxious to be informed in time for the session of the Assembly, i.e., by December next, whether your Lordship will authorize me to assent a loan not exceeding one hundred thousand pounds, with a sinking fund, to be secured on the general revenue, and employed in harbor improvements, light-houses, and railway works.

7. I have named the highest sum that the colony could now wisely borrow; I think I should not now myself propose so large an amount unless the colony could bear increased taxation, which it cannot in its present impoverished state; but as the process of raising the sum voted would be spread over two or three years, the revenue would probably have benefited in the interim, as the works and the expenditure would stimulate production and promote commerce, and even attract laborers and immigrants, and tend to fix our floating population.

8. In concluding this despatch I earnestly request your Lordship to consider that this colony has forfeited many of its chances of success through the introduction of convicts; that transportation had been stopped at a time when the colony had learned to depend upon it; that the introduction of free immigrants has been suspended; and that in this state of crisis even a small stimulus may turn the scale and rule its future fortunes.

I have, &c.

FRED. A. WELD, Governor.
The Right Hon. Earl Granville, K.G.,
&c., &c.

[REPLY.]

Downing Street, 2nd November, 1870.

Sir,—I have the honor to acknowledge the receipt of your despatch No. 113, of the 16th August, in which you request authority to assent to a loan not exceeding £100,000, with a sinking fund to be secured on the general revenue, and expended on harbor improvements, light-houses, and railway works.

2. In the absence of any detailed information as to the works which you propose, I am unable to give any general sanction to the raising of a loan for those purposes. Indeed, in any circumstances, I would not authorize so large a loan; I should be willing to consider the expediency of a loan of £25,000, or perhaps a somewhat larger sum, on receiving a full report from you of the works which your Council may consider desirable, and such as cannot be provided for out of revenue, mentioning their relative urgency.

3. I must remind you, however, that the importation of a large amount of labor for temporary employment in constructing works for which the funds are provided by loan produces an artificial and inflected state of the labor market. The consequence may be, as in other similar cases, that upon the conclusion of these works the want of employment will cause much suffering, and perhaps disorder, and that pressure—very difficult to resist—will be put upon the Colonial Government to borrow more money for the purpose of finding work for the unemployed.

I have, &c..
KIMBERLEY.

Governor Weld, &c.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he was quite sure that the Secretary of State's despatch, just read, would not be satisfactory to the Council; he was very much disappointed when hearing of it that morning. There was one remark in His Excellency's despatch upon which he would make a few observations. It was where His Excellency refers "to the present impoverished state of the colony." At that time the Governor had not before him the additional taxation proposed (the despatch was written in August last), nor the comparative taxation in this colony and the other colonies. From a statement which he had the honor to put before the House, it was shown that the additional taxation in this colony would be about 10s. per head less than in the other colonies. For the information of the House he might state that

since the despatch referred to was sent, the Governor had strengthened his opinion, and in accordance with the general opinion expressed for a loan, not to exceed the amount stated in the House, the Governor had again communicated to the Secretary of State in another despatch, the reply to which had not been received, but may be looked for shortly. When a reply was received the House would be made acquainted with the despatches. Such instructions received from the Secretary of State, as will be seen, will preclude the Governor from giving his assent to a loan even for £25,000, as the Secretary of State will only sanction that amount on being satisfied that the recommendation was reasonable and proper. The Governor, so far as possible, had done his utmost to secure the larger loan of £100,000, to be expended on works most desirable to be undertaken, or on which it may be necessary to be expended. The subject must now rest with that Council; the Council should at once take up the question: the members fully understand it; have the questions brought forward; have discussions upon it; discuss what works are most necessary, and other details. The Governor would send forward the result of their deliberations, and recommend their desires as strongly as he possibly could, consistently with his duty in reference to the despatch received.

FRAUDULENT DEBTORS BILL.

In Committee.

Resumed debate.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that when this Bill was under consideration it was urged very strongly, that the repeal of the Act 20 Victoria No. 9. should be excluded from it, on the ground that no power was given in this Act to enable creditors, by means of an affidavit, made before some local justice of the peace, of an absconding debtor about to leave the colony. He was not then aware of the general policy of the legislation of this colony. The policy of the legislation regarding the debtors, was to abolish arrest in all cases. From one of the earliest Statutes of William IV, that was the policy of the legislation in this colony, and he found that from that time until the present, or when the last Act, 24 Victoria, No. 15, was framed, proceedings in the Supreme Court did not commence by arrest of the person, but by a judicial process, which he would explain. Holding in view the policy of the legislation in this colony, the Bankruptcy Act abolishes the arrest of a person for debt, but provides in the case of a debtor who is about to leave the colony without paying his debts;

section 4, provides what is called a debtor's summons. At the time the Bankruptcy Bill was passed in England, it did not meet the views of traders, who held similar views to hon. members of the House. Members of the House of Commons proposed in Parliament amending that Act, and in the last session a few new clauses were introduced into that Act, which he had now, having reached him, by book post, last night. [The hon. gentleman here read the Act.] Now when any person who owed £50 was about to leave the colony, one applied to the court for a debtor's summons. They could prevent debtors leaving the colony, by proceeding under the Bankruptcy Bill. It was a much better remedy than was provided for under the 20th Victoria No. 9, which was not in reality, worth the paper upon which it was printed. Nothing could be done under that Act; the debtor could give them security, and then he could laugh at them. He would tell them why the 20th Victoria No. 9 was a nullity. The justices are bound to take security or bond, and the conditions of that bond itself, which he read, rendered it a nullity. The debtor having given security, leaves—he is not in the colony—he does not choose to satisfy the judgment—the bond cannot render the debtor to prison, because he is not to be found. The only remedy was then against the bond—the debt would not be satisfied, and as the creditor failed to carry out a necessary condition of the bond, the defendant must get a verdict against the creditor; by reason of that bond, which is not worth, as he said, the paper it is printed upon. It would, therefore, be stultifying themselves, by keeping on the Statute book an Act which was inoperative. If you had dealings with a person to the amount of £50 and required him to pay, you have your remedy under the Petty Debts Act. It was a sure and cheap remedy. Why, he would ask, delay in making demands on the debtor, until within a few hours of leaving the colony? Why not send in the account promptly? It may occur that the 20 Victoria No. 9, may be used for the purpose of oppression. Cases under this Ordinance could be trumped up, but under the Small Debts Act a debtor would have to pay, and a summons could be taken out at any moment, and by introducing into the Bill the three clauses which he had read, it would meet all the requirements of the colony. What was the use cumbering themselves with useless lumber—turn it out—burn it; adopt the clauses which would be submitted to them—enforce them under the Debtors' Act, and there would be no need putting in force an unnecessary Statute, and running counter

to the spirit of the legislation adopted in this colony until now, the abolishing of imprisonment for debt.

Mr. SHENTON said he had listened most attentively to what had fallen from the Hon. the Attorney General, but he did not think he had explained the difficulty away at all. Before a creditor would have time to apply to a Local Court, the debtor would be far away. Under the 20 Victoria No. 9, a debtor could be arrested. He still maintained if the 20 Victoria No. 9 was repealed, it would be very hard for creditors.

Mr. McKAIL said that if Act 20 Victoria No. 9 was repealed it would do serious harm in his district.

Mr. STEERE did not consider the Hon. the Attorney General's clauses would prove any benefit whatever.

Mr. NEWMAN considered the Hon. the Attorney General was wrong in saying that the Petty Debts Act gave creditors a sure and safe remedy; it did nothing of the sort. He was in favor of keeping on Act 20 Victoria No. 9.

The COLONIAL SECRETARY (Hon. F. P. Barlee) urged the House to be guided by the opinion of the Hon. the Attorney General, and repeal the Statute 20 Victoria No. 9.

The ATTORNEY GENERAL (Hon. R. J. Walcott) reviewed at considerable length the objections that had been urged for the continuance of the Statute and was in doubt whether it was his want of perspicuity, or the obtuseness of hon. members which prevented them acquiescing in his opinion.

Mr. BROWN was in favor of the continuation of Act 20 Victoria No. 9. The hon. gentleman considered the measure a very useful one, and proceeded to catechise the Hon. the Attorney General.

The ATTORNEY GENERAL (Hon. R. J. Walcott) considered that as Mr. Brown had been a Resident Magistrate, he could best answer the questions he put himself.

The SPEAKER expressed his regret at the proposal to repeal Act 20 Victoria No. 9; he considered it a good Act.

Mr. DRUMMOND considered that it was evident from what had fallen from the Hon. the Attorney General, he was not aware of the peculiar circumstances of the colony. Instead of having power to arrest a man for £50, it ought to be £5.

Mr. NEWMAN was sorry he did not understand the Hon. the Attorney General, but he was not as bad as Mr. Brown, who misunderstood him a second time. The circumstances of the colony were such that a Bill on the subject, and working well in the mother country, would not suit here.

Mr. McKAIL explained how injuriously the repeal of Act 20 Victoria No. 9 would operate in Albany. The conduct of the Attorney General, in explaining the law, reminded the hon. gentleman of a clergyman whose duty it was to teach people the way to heaven, while he himself did not know the way around his own house.

The ATTORNEY GENERAL (Hon. R. J. Walcott) supposed hon. gentlemen would insist that they had no remedy. He maintained that they had the best remedy in the world—do not give such men credit! He was perfectly appalled to have to legislate for the scum of the world!

Mr. SHENTON moved that Act 20 Victoria No. 9 be not repealed.

Amendment put, "That Act 20 Victoria No. 9 be not repealed," upon which a division was called for, the result being as follows:—

Ayes	13
Noes	2

Majority for	11
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Ayes.	Noes.
The Speaker	The Hon. R. J. Walcott
Mr. Steere	The Hon. F. P. Barlee
Mr. Drummond	(Teller.)
Mr. Brown	
Mr. Marnion	
Mr. Moore	
Mr. McKail	
Mr. Russell	
Mr. Newman	
Mr. Gull	
Mr. Logue	
Mr. Phillips	
Mr. Shenton (Teller.)	

Amendment thus passed.

Bill reported, with an amendment.

LUNACY BILL.

In Committee.

Resumed debate.

Clause 12—

Mr. STEERE suggested that subsection 5 should be altered so as to give power only to two justices of the peace to send any man to prison or to the lunatic asylum.

Amendment agreed to.

Clause, as amended, agreed to.

Sitting suspended until 8 p.m.

Resumed debate.

Clauses 13 to 108 agreed to.

Bill reported, with an amendment.

PUBLIC POUND BILL, 1861.

Second Reading.

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

The Bill was read a second time.

Select Committee.

Mr. LOGUE moved that the Bill be referred to a select committee consisting of Mr. Shenton, Mr. Brown, Mr. Drummond, Mr. Monger, and the Mover.

Question put and passed.

CAPITAL PUNISHMENT BILL.

Second Reading and Committee.

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

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

ELECTRO-MAGNETIC TELEGRAPH COMPANY BILL.

Second Reading and Committee.

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

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

SALE OF FERMENTED AND SPIRITUOUS LIQUORS BILL.

Second Reading.

Mr. STEERE moved that the Bill be now read a second time.

The Bill was read a second time.

REPEAL OF LICENSE TO KILL KANGAROOS BILL.

Second Reading.

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

The Bill was read a second time.

In Committee.

Clause 1—

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that the reason why he had given ample time for the Bill was for the purpose of giving hon. members time to form their opinion upon it.

Mr. MONGER said that the natives to the eastward of York live upon kangaroo, and it would be a great hardship to them if a license was given to have them destroyed.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he brought forward the measure at the request of some of the settlers, among whom were Mr. Padbury. The kangaroos had increased so much while

the natives had so decreased that their destruction was necessary, as they ate up the natural grass from sheep and cattle.

Mr. MONGER said that it might suit Mr. Padbury to have them destroyed, as there may not be many natives in his part of the country, but he could assure hon. members that to the eastward of York the natives lived upon them.

Mr. SHENTON thought they ought not to permit kangaroos to be killed within a certain distance of towns. Between Perth and Toodyay a number of natives live upon kangaroo.

The COLONIAL SECRETARY (Hon. F. P. Barlee) would not press the Bill, if he thought it would injure the natives.

Mr. GULL did not think the Bill necessary, as persons now killed kangaroos without any license.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said but if this Ordinance is repealed, people will go and kill kangaroos for the sake of the skins. The export duty of 1s. on each prevents their destruction.

Mr. GULL was in favor of the prohibition.

Mr. MONGER commented that some years since as many as 200 or 300 kangaroos might be seen together, but now they were not nearly so numerous. He would move the Bill be read that day six months.

Clause not agreed to.

Bill defeated.

THIRD READINGS.

The following Bills were read a third time and passed, on motions by the Colonial Secretary (Hon. F. P. Barlee): Divorce and Matrimonial Causes Bill, Fremantle Carriage Ordinance, 1868, Law of Evidence and Practice on Criminal Trials Bill, Law of Evidence Bill, Larceny and Embezzlement Bill, Administration of Estates of Deceased Persons Bill, Specialty and Simple Contract Debts Bill, Distressed Colonial Seamen Bill, Naturalization Bill, and Guildford Appropriation Lands Bill.

TRESPASS BY HERDS OF WILD HORSES AND CATTLE

Select Committee Report.

Mr. PHILLIPS moved that the report be adopted.

Question put and passed.

The Council adjourned at 10 p.m.

LEGISLATIVE COUNCIL,

Tuesday, 20th December, 1870.

Survey Department Returns—Papers Tabled—Pauper Returns—Adjournment.

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

SURVEY DEPARTMENT RETURNS.

Mr. SHENTON, in accordance with notice, moved that the following returns be laid on the Table of the House:—A full account of all pay and allowances to each surveyor in the year 1849; the number of town lots, with acreage, marked out by each surveyor in the year 1849; same particulars for 1859 and 1869.

Question put and passed; the returns were tabled.

PAPERS TABLED.

The COLONIAL SECRETARY (Hon. F. P. Barlee) laid on the Table of the House two despatches from the Secretary of State. They were then read by the Clerk, as follows:—

Downing Street,
28th Oct., 1870.

Sir,—With reference to that part of my Circular Despatch of the 7th inst. which related to the request of the Government of Victoria that a steam vessel might be held in readiness at Galle to convey to Australia any news of special importance connected with the War, I have the honor to transmit to you, for your information, a copy of the Despatch which I have addressed to Lord Canterbury in answer to this application.

I have, &c.,
KIMBERLEY.

Governor Weld, &c.

Downing Street,
28th Oct., 1870.

MY LORD,—With reference to that part of my Circular Despatch of the 7th inst., A, which related to the request of your government that a despatch boat might be held in readiness at Galle to convey to South Australia any news of special importance connected with the war, I have the honor to inform you that I have been in communication on this subject with the Lords Commissioners of the Admiralty.

2. It appears to Her Majesty's Government that it would generally be easier for an agent of the Colony than for the Home Government to determine what news might be sufficiently