

"in the rapid advancement and prosperity
"of the colony.

"I now declare this Parliament pro-
"rogued to Wednesday, the 22nd day of
"June next."

The session then closed.

Legislative Assembly,

Friday, 18th March, 1892.

Municipal Water Supply Preservation Bill: third
reading.—Railways Act, 1878, Further Amendment
Bill: Legislative Council's Amendments.—King
George's Sound Garrison Discipline Bill: Legis-
lative Council's Amendments: bill laid aside—
Prorogation.

THE SPEAKER took the chair at 11
a.m.

PRAYERS.

MUNICIPAL WATER SUPPLY PRESERVATION BILL.

Read a third time, and forwarded to
the Legislative Council.

RAILWAYS ACT, 1878, FURTHER AMENDMENT BILL.

LEGISLATIVE COUNCIL'S AMENDMENTS.

The House went into committee for
the consideration of the following amend-
ments made by the Legislative Council
in the Railways Act, 1878, Further
Amendment Bill:

No. 1.—On page 2, clause 1 (sub-
clause 2), lines 4 and 5.—Strike
out the words "regard may be
had," and insert "such owner
shall be entitled," in lieu thereof.

No. 2.—On page 3, clause 9, line 3.—
Between the words "existing"
and "in" insert "or hereafter
to be constructed."

No. 3.—On page 4, add the following
new clause, to stand as No. 12:—
"The powers conferred upon the
Commissioner of Railways by this
Act shall be limited to Railways
owned by or worked by the Gov-
ernment."

THE ATTORNEY GENERAL (Hon.
S. Burt), without comment, moved that
Amendment No. 1 be agreed to.

Question—put and passed.

THE ATTORNEY GENERAL (Hon.
S. Burt) said that Amendment No. 2
simply gave the Commissioner power to
close any sidings that may be constructed
in the future, as well as existing sidings.
He moved that the amendment be agreed
to.

Question—put and passed.

THE ATTORNEY GENERAL (Hon.
S. Burt), without comment, moved that
Amendment No. 3 be agreed to.

MR. LOTON asked whether it was
desirable, in passing an Act of this kind,
that it should not apply to all railways
in the colony, whether owned by the
Government or not. It seemed to him a
rather unusual thing that we should have
legislation giving the Commissioner of
Railways power to control the Govern-
ment lines, but giving him no power to
control railways built on the land grant
system, which were used by the public
just as much as Government lines. To
his mind the same right of control should
exist in both cases, and he failed to see
why the Council desired to make this
distinction.

THE ATTORNEY GENERAL (Hon.
S. Burt) said the hon. member would
see on reference to the Council's amend-
ment that it only related to the "powers"
conferred on the Commissioner under
this bill. Those powers only related to
the taking of land by the Commissioner
for railway purposes after a railway had
been constructed. In the case of private
or land grant railways the owners were
not empowered, under their contract, to
take land after the railway had been
constructed, and could only take such
lands for certain specific purposes. Here
it was proposed to give the Commissioner
power, in respect of Government railways,
to take land at any time before or after
the construction of the line, and for any
purpose whatever. He did not think it
was desirable to give the same power to
the Commissioner in respect of private
lines, where the power to take land was
governed by the terms of the contract.
The only other power conferred upon the
Commissioner by this bill was the power
to make agreements as to the construc-
tion and working of sidings and the rent

payable for the use of sidings. Of course private companies would make their own regulations for dealing with their sidings. The property being vested in them absolutely they had a freer hand than the Government had. The hon. member would observe, as he had already said, that the Council's amendment only referred to the Commissioner's "powers;" the amendment did not in any way interfere with the penalties imposed by the bill, which would be applicable to private lines as well as Government lines.

MR. LOTON said that having heard the Attorney General's explanation, he was satisfied.

Amendment—put and passed.

KING GEORGE'S SOUND GARRISON DISCIPLINE BILL.

LEGISLATIVE COUNCIL'S AMENDMENTS.

The House went into committee to consider the schedule of amendments made by the Legislative Council in the bill to provide for the government and discipline of the troops forming the garrison at King George's Sound.

Amendment No. 1.—On page 1, strike out clause 1, and insert the following in lieu thereof:—

"1. The troops for the time being forming the garrison at King George's Sound, whether raised in South Australia or elsewhere, while serving in Western Australia shall be subject to the provisions of the Mutiny Act in force for the time being in Her Majesty's Army, as if they had been duly enlisted and attested for Her Majesty's Army for general service, and as if the Force formed part of Her Majesty's Army, and shall in like manner during the same time be subject to the Queen's Rules and Regulations, the Rules and Articles of War, and to such other Rules, Regulations, and Discipline of whatever nature or kind to which Her Majesty's Army is for the time being subject, so far as the same are not inconsistent with this Act and any Rules and Regulations made thereunder: And every officer of the force shall be subject to the like Provisions, Rules, Regulations, Articles, and Discipline so far as the same shall be applicable to his rank, and to the provisions similar to those contained

"in the South Australian 'Military Force Act, 1878,' relating to Discipline, and to such Regulations as may be agreed upon between the Governor of Western Australia and the Governor of South Australia."

THE ATTORNEY GENERAL (Hon. S. Burt): This bill, as members are aware, relates to a most important matter, the government and discipline of the federal garrison to be formed at Albany. Unfortunately it came up for consideration at a late period of the session, but there were difficulties in the way of bringing in the bill earlier. The bill as it passed this House was in accord with the views of the Governments of the other colonies interested in this question of federal defence, but it will be seen that the Legislative Council has entirely altered the shape of the bill as it left this House; and although I have endeavored to put into form the amendments introduced by those who opposed the bill in the Council, and to make the draft in accordance with their wishes, I beg to protest that the bill now is no way according to my idea of what it should be, and I take no responsibility whatever with regard to the bill as it now stands. Having said that much, I do not think I need say anything more. But I would point out that in this first clause, introduced by the Council, it would be well to make a verbal alteration or two, as they are clearly errors. The clause is copied from the South Australian Act, which, I may say, contains rules and regulations relating to military discipline, and it will be noticed that this clause which is now before us provides that the troops forming the garrison at King George's Sound are to be subject to the same regulations as Her Majesty's Army "so far as the same are not inconsistent with this Act, and any rules and regulations made thereunder." Now, as in this Act we do not profess to make any rules or regulations of any kind, it is obvious that they cannot be inconsistent with the regulations of Her Majesty's Army or any other army. What it is intended to refer to is not "this Act," but the South Australian Act, from which this clause has been copied. Therefore it will be necessary to strike out the words "this Act," and to insert the words "the Act hereinafter mentioned"—that is, the South Australia-

lian Military Force Act which is referred to in the latter part of the clause. The arrangement between this colony and the other colonies as regards the garrison at King George's Sound was that the troops forming this garrison—until Western Australia embodied her own military force and was in a position to man this garrison—should be South Australian troops, and that these troops should be subject to the provisions of the Mutiny Act and governed by their own Act and the regulations made under it. But the Council, it appears, will not accept that idea, and propose that the troops shall be governed by the same rules and regulations as are in force in Her Majesty's Army, "so far as the same are not inconsistent with this Act,"—that is, our own Act, the present bill. As I have said, this bill contains no rules nor regulations, and, therefore, this is clearly an error. It must mean the South Australian Act, under which these troops are enlisted, and under which they have sworn allegiance. I therefore propose to strike out the words "this Act," so as to make the clause refer to the South Australian Act, which is mentioned in a subsequent part of the clause. Then, again, proceeding a little further down, we come to these words: "And every officer of the force shall be subject to the like provisions, rules, regulations, articles, and discipline," etc. These words, it will be seen, only relate to the officers of the force. What is intended, of course, is that the whole of the troops forming this garrison shall be subject to these rules and regulations, and not the officers alone. Therefore, an amendment to that effect is clearly necessary. I now move, "That Amendment No. 1 proposed by the Legislative Council be amended, by striking out the words 'this Act,' in line 8, and inserting the words 'the Act hereinafter mentioned' in lieu thereof, and by inserting between the words 'and' and 'to,' in line 11, the words 'the said Troops shall also be subject.'"

MR. MOLLOY: I quite appreciate the objections of the learned Attorney General to this amended clause. I fail to see how we can make the provisions of the Mutiny Act—which relates to Imperial troops, under the control of Imperial commanding officers, and liable at any time to be ordered on foreign service,

and so on—apply here until we have an Act and a force of our own, and a garrison formed of our own troops. In South Australia they have a Military Force Act of their own, and the object of this clause, I take it, is to provide that the garrison at Albany, so long as it consists of South Australian troops, shall be subject to the provisions of the Mutiny Act, and the Queen's Regulations, so far as they are not inconsistent with the provisions of the South Australian Military Act. It would be absurd to say "so far as they are not inconsistent with this Act" (that is, our own bill), when the bill contains no regulations at all.

Question—put and passed; and the amendment of the Legislative Council amended accordingly.

THE ATTORNEY GENERAL (Hon. S. Burt): I move that Amendments Nos. 2, 3, 4, 5, 6, and 7 of the Council [*vide* "Votes and Proceedings," pp. 248-9] be agreed to. I would like to repeat that although I am moving these amendments on behalf of the Government, at the last moments of the session, on the ground that it may be better to have this Act than none at all,—I wish to repeat that I do not agree with this measure at all, nor am I responsible for it. The other colonies had agreed to the Act as introduced by the Government, and of course I cannot say what they may do with regard to this. If they will not agree to it, I cannot help it.

MR. LOTON: Under these circumstances is it desirable, after what has fallen from the Attorney General on behalf of the Government, namely, that he, the legal adviser of the Government, declines to accept any responsibility with regard to the bill now before us—is it desirable that this House should pass a bill of this kind? It seems to me a rather unsatisfactory way of proceeding with legislation of this nature, when we have the responsible legal adviser of the Government distinctly stating that he disapproves of the measure in its present shape.

THE ATTORNEY GENERAL (Hon. S. Burt): I do not say that the bill cannot be made to operate until next session of Parliament—and it will be seen it is proposed to limit it to that time; but I say this is not the bill agreed on between this Government and the

other colonies, and which I was satisfied with. This proposes to do what is wanted in another way, and a way for which I am not responsible, and won't be held responsible. It may act; I do not say it will not, but it may not.

MR. CANNING: Would it not be a fact that any defence force or troops raised in any of the other colonies must be subject to the provisions of the Mutiny Act, and that in this colony, which has only a right to raise troops in connection with its own local service, these troops would be under the direction of the War Office in case of necessity and be subject to the provisions of the Mutiny Act? If that is the case I do not see how an Act passed in a neighboring colony could extend to this colony. Undoubtedly the troops would be under the provisions of the Mutiny Act, and whatever Act was passed here could only be in force during the same period as the Mutiny Act,—that is, for twelve months from the time it is passed. We know it is necessary to renew the Mutiny Act every year in the Imperial Parliament.

THE ATTORNEY GENERAL (Hon. S. Burt): I am afraid I do not quite catch the drift of the hon. member. The Imperial Mutiny Act now will not apply to colonial forces raised in the colonies themselves unless they are serving with Imperial troops. But most of the colonies adopt a Mutiny Act for their own troops, and also make rules and regulations to meet local circumstances. That is what the South Australian Act does, and what we proposed to do. In that colony they have also enacted another Act, called the Military Force Act, 1878, which contains some further provisions as to discipline and an infinite number of regulations. As I have already said, this garrison at Albany is for the present to be formed out of South Australian troops, and inasmuch as these troops were enlisted and sworn under the South Australian Act, it was necessary, if they served out of that colony, that they should carry with them that same law under which they had been raised; and it was suggested that the simplest way of doing it was to apply the South Australian garrison law to the garrison at Albany, as if it were the law of Western Australia. That was the effect of the original bill, which, as I said, was

agreed to by, and satisfactory to, the other colonies, and, rightly or wrongly, I would have been responsible for it; but, as I have only had a very limited time to consider this amended bill, I hardly know what the effect of it may be.

SIR J. G. LEE STEERE: I see that the 5th amendment of the Council provides that this Act shall remain in force until the "end" of the next session of Parliament. I presume it can be repealed if necessary before the end of the session? It might be desirable to bring in another Act at the commencement of next session.

THE ATTORNEY GENERAL (Hon. S. Burt): I think that provision could be repealed at any time, the same as any other provision. The bill, as I say, is not my bill.

Amendments agreed to and reported to the House.

THE SPEAKER: Before I put the question that the report be adopted I wish to say that I have very great doubt as to whether the Legislative Council had any right to send back a bill of this description to us, because it is an entirely different bill from the bill we sent to them. Therefore, I shall protest against its being regarded as a precedent. I have not had time to look up the authorities, but I am strongly of opinion that the Council cannot send us back what is virtually a new bill, when we send a bill down for their concurrence.

Report adopted.

Ordered—That a message be transmitted to the Legislative Council, informing them that the House had agreed to their amendments Nos. 2 to 7, inclusive, but proposed further amendments upon amendment No. 1, in which amendments the Assembly desired the concurrence of the Council.

At 10 minutes to 12 o'clock, noon, Mr. Speaker informed the House that he would leave the chair until half-past two o'clock, p.m.

At half-past two o'clock, p.m., Mr. Speaker having resumed the chair, the following message was received from the Legislative Council:

"The Legislative Council informs the Legislative Assembly that it is unable to agree with the amendment suggested by the Legislative Assembly in the Council's amendment No. 1 to 'The

"King George's Sound Garrison Discipline Act, 1892,' whereby it was proposed to strike out the words 'this Act,' and to insert the words 'the Act hereinafter mentioned,' in lieu thereof."

"The Legislative Council concurs in the amendment suggested by the Legislative Assembly in the said Act, whereby it was proposed to insert the words 'the said troops shall also be subject' between the words 'and' and 'to,' in the Council's amendment No. 1 of the said Act."

The House resolved itself into a committee of the whole to consider the above message.

THE PREMIER (Hon. Sir J. Forrest): What will be the result if we still decline to agree to the Council's amendment?

THE SPEAKER: If we send a message back again insisting on our amendment, possibly they may agree to it. If they do not, the bill will be dropped.

THE PREMIER (Hon. Sir J. Forrest): I move (in the absence of the Attorney General), "That this House insists upon its amendment upon the Council's amendment, whereby the words 'this Act' were struck out, and the words 'the Act hereinafter mentioned' were inserted in lieu thereof."

Question—put and passed, and a message to that effect forwarded to the Legislative Council.

Subsequently, the following message was received from the Council:—"The Legislative Council informs the Legislative

Council having considered the message of the Legislative Assembly, is unable to agree to the Assembly's first amendment on the Council's amendment "No. 1 in the King George's Sound Garrison Bill."

The House went into committee to consider the above message.

THE PREMIER (Hon. Sir J. Forrest): I have conferred with the Attorney General, and he says he is unable to concur with the Council's suggestion, and as they will not consent to the amendment there is no help for it but to let the bill drop. I therefore move, "That the Assembly disagrees with the requirements of the Legislative Council as expressed in their message, and orders the bill to be laid aside."

Question—put and passed.

Ordered—That the resolution of the House be transmitted by message to the Legislative Council.

PROROGATION.

A Message having been delivered to Mr. Speaker by the Usher of the Legislative Council, stating that His Excellency the Administrator desired the presence of the members of the Assembly in the Council Chamber, Mr. Speaker and hon. members proceeded there; when His Excellency, having given the Royal Assent to a number of bills, and delivered a Speech (*vide p. 981 ante*), prorogued the session until Wednesday, the 22nd day of June, 1892.

The session then closed.