

known and where the offence was committed. There might be a strong feeling of animus or of prejudice for or against him, and it might be felt that the Crown would be unable to secure a conviction, or, on the other hand, that the prisoner might not receive strict justice, owing to the existence of a strong prejudice against him.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) was glad the hon. and learned member for Perth had spoken on the subject, for as a lawyer of course he was able to put the matter more clearly than a layman. He agreed with the hon. member that such cases as he referred to were very undesirable, and a modification of the law might be an advantage; but he hardly thought it came within the scope of the present Bill. He was inclined to doubt, speaking off-hand, whether it would be desirable that the Court which was going to try a prisoner should decide where he should be placed on his trial. His present impression was to leave it, as was frequently done in England, to the prosecution or to the prisoner himself to move the Supreme Court in the matter. That appeared to him to be the lines on which legislation in this direction should proceed. He very much doubted the policy of leaving the Court itself to say whether it would try a case or not, for, if neither the prosecution nor the prisoner was dissatisfied with the local tribunal, he really did not see why the tribunal itself should move in the matter. Where there were exceptional circumstances connected with a case, such as local sympathy or local prejudice, it must be local sympathy or local prejudice affecting either the prosecution or the prisoner—or supposed to affect them; and it appeared to him it was for them to put the power of the law in motion, and he was inclined to think the right power to be put in motion was the Supreme Court.

MR. SHENTON: How would it be if we have a Judge going on circuit, and these Courts of Quarter Sessions are abolished?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the same question had occurred to his own mind, and he thought it would be better to let the matter stand as it is, for the present.

The title and preamble of the Bill were then agreed to, and the Bill reported.

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

## LEGISLATIVE COUNCIL,

*Friday, 27th July, 1883.*

Statistics relative to Harbor and Shipping at Fremantle—Contract for Geraldton Hospital—Message (No. 7): Calcutta Exhibition—Message (No. 8): Harbor and Light Dues—Message (No. 9): Night trains between Perth and Fremantle during Session of Council—Alleged obstruction in auditing Railway Accounts—Eastern Railway: Rolling Stock for working Second Section—Mining Act and Goldfield Regulations—Supplementary Estimates, 1882—Adjournment.

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

### PRAYERS.

#### STATISTICS RELATIVE TO HARBOR AND SHIPPING AT FREMANTLE.

MR. MARMION asked the Colonial Secretary to lay upon the Table statistics with reference to the shipping at Fremantle Harbor, which the House last Session asked the Government to collect during the recess, showing the amount of revenue that may be expected from increased harbor accommodation at Fremantle.

THE COLONIAL SECRETARY (Hon. M. Fraser) laid upon the Table statistics showing the total registered tonnage of vessels which arrived in Fremantle during the year 1882; also the number of tons of cargo landed and shipped during the same year; and further, the amount collected on account of tonnage, pilotage and light dues, and water rates, during the same period. The hon. gentleman said the bearing of these statistics on the question of providing the interest on moneys to be expended in increased harbor accommodation at Fremantle of course depended

upon the amount of any further special tonnage rates which may be fixed in order to provide towards the payment of such interest, and upon any fresh appropriation which may be made of the present harbor revenues.

#### HOSPITAL FOR GERALDTON.

MR. WITTENOOM asked the Director of Public Works, "Why no steps have been taken for calling for a contract for the erection of a hospital at Geraldton, and when the Government intend making a move towards spending the money voted for that purpose?" Hon. members were aware that a sum of £1000 was voted in 1881 towards building a hospital at Geraldton, which was very much needed, and another sum of £1000 was again voted last year, for the same purpose, making £2000 in all; yet no steps whatever had been taken towards the erection of the building. Tenders had not been invited yet for the work, and the people of the district were naturally very anxious to know what was the cause of all this delay. He was informed that a sum of £200 or £300 had been expended on the old hospital building, and, if that was the case, all he had to say was, it was money thrown away.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. H. Thomas) replied: "When I last saw Doctor Elliott, I asked him the least amount of accommodation he required for the hospital, as the sum on the Estimates, £2,000, was insufficient to carry out the original design. He then agreed to reduce the size of the wards from 30' x 20' to 25' x 18' feet. I afterwards took up an estimate for the reduced size, which could not be carried out for less than £3,216. The vote on the Estimates was only £2,000 and £300 was taken out of it for additions to the doctor's quarters, leaving a balance of £1,700 for the hospital. Finding this, I wrote to Dr. Elliott on the 16th last April, and again requested him to give me the smallest amount of accommodation he could do with for the hospital, and asking if the present old buildings could not be used for cook-house, and quarters for orderly, as well as a Lunatic Ward. Not getting a reply, I telegraphed to him on the 30th April

"last, as follows:—'No reply received to my letter of the 16th, or telegram of the 26th; please do so at once, as I am waiting for it.' On receipt of his reply to this, plans were commenced, but not being able to see my way clear without a personal inspection of the site and how best to bring in the present buildings, and other urgent estimates and plans being specially required for the Legislative Council, I had no alternative but to defer the matter and wait a favorable opportunity to proceed to Geraldton and get full particulars, after which the plans, &c., can be finished and tenders called for in a fortnight after my return."

#### MESSAGE (No. 7): CALCUTTA EXHIBITION.

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

"The Governor lays before the Honorable the Legislative Council a letter, dated the 28th of May last, with enclosures, which has been addressed to the Colonial Secretary by Mr. Joubert, the Executive Commissioner of the International Exhibition to be opened at Calcutta in December next.

"The Governor will be glad to learn whether the Council consider it expedient that this Colony should take part in the Exhibition; and, if so, what expense should be incurred.

"Government House, Perth, 27th July, 1883."

The consideration of the Message was made an Order of the Day for Monday, 30th July.

#### MESSAGE (No. 8): HARBOR AND LIGHT DUES.

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

"In reply to the Address of the Honorable the Legislative Council, No. 3, dated the 23rd instant, the Governor transmits, herewith, the telegrams and letters named in the margin,\* from

\*Telegram, Mr. Symon to Colonial Secretary dated 13th June, 1883; Telegram, Colonial Secretary to Mr. Symon, dated 14th June, 1883; Telegram, Colonial Secretary to Mr. Symon, dated 15th June, 1883; Letter, Mr. Symon to Colonial Secretary, dated 16th June, 1883; Letter, Colonial Secretary to Mr. Symon, dated 18th June, 1883; Letter, Mr. Symon to Colonial Secretary, dated 6th July, 1883.]

"which it will be seen that, in consequence of an application from Mr. D. Symon, on the part of Messrs. Harrold Brothers, of Adelaide and London, all steamers arriving at Fremantle from Europe direct have been exempted from Harbor and Light dues, until the 31st of December next.

"The present state of the law does not, the Governor is advised, allow of an exemption in favor of the vessels of a particular firm. For this and other reasons, a general exemption has been made, till the close of this year only; and, as stated in paragraph 30 of the Governor's opening Speech, the Council will be asked to pass a Bill amending the law in respect of Harbor and Light dues.

"The Bill in question will, among other provisions, give the Executive power to make particular exemptions from the payment of Harbor and Light dues. Should the Council pass the Bill and otherwise approve, and should the steam line of Messrs. Harrold Brothers be regularly established, the Governor would propose to continue the present exemption for three years, in favor of their steamers.

"Government House, Perth, 27th July, 1883."

#### MESSAGE (No. 9): NIGHT TRAINS DURING SESSION OF COUNCIL.

THE SPEAKER also intimated that he had received the following Message from His Excellency the Governor:

"In reply to their Address No. 4, of the 24th inst., the Governor informs the Honorable the Legislative Council that he has directed a late night train to be run from Perth to Fremantle on the days on which the Council holds evening sittings.

"The Commissioner of Railways has been requested to report, in a fortnight, the expenses and receipts connected with this train.

"Government House, Perth, 27th July, 1883."

#### OBSTRUCTION IN AUDITING RAILWAY ACCOUNTS.

MR. STEERE asked the Colonial Secretary, "Whether any steps have been taken by the Government to inquire

"into the serious charge made by the Auditor General in his annual report, in which he states 'that his office has been obstructed and resisted in the execution of its duty' in examining the Railway Accounts; also, why no definite instructions have been given to complete the audit of these accounts, as earnestly sought for by the Auditor General?"

THE COLONIAL SECRETARY (Hon. M. Fraser), in reply, said that a strong difference of opinion having arisen between the Railway and the Audit Departments, as to the proper form in which the Railway accounts should in future be kept, a full inquiry was at once directed by His Excellency on his arrival in the Colony. This inquiry was now in progress, with a view to keeping the Railway accounts according to a system which, without being unduly inconvenient to the department, shall not in any way conflict with the Audit Act of 1881, which must of course be entirely and promptly carried out. In regard to the audit of past accounts, it was the Auditor General's duty to complete this at once, and he had been directed to do so. His powers under the Act were ample, and he required no instructions from the Government.

#### ENGINES AND ROLLING STOCK: EASTERN RAILWAY.

MR. STEERE asked the Commissioner of Railways, "Why the engines and rolling stock for the Second Section of the Eastern Railway were not indented for sooner, as it appeared by the report of the Railway Department that the contract for their supply was only entered into in March last, and, taking 40 weeks for their completion, the engines could not possibly arrive in the Colony before March, 1884, being 8 months after the original date fixed for the completion of the Second Section; and what course the Commissioner of Railways proposes to adopt to work the passenger and goods traffic to Chidlow Springs between October, the date now fixed for the completion of the Second Section, and April, which is the earliest period at which the engines can be made available for traffic?" The hon. member said that on

the 22nd March, 1881, Mr. Shenton, referring to the extreme gradients on this section of the line, asked the question, whether the Commissioner of Railways did not think it would require more powerful locomotives than those now in use, to work these gradients, and the reply made by the Commissioner was that "certainly more powerful locomotives would be required." That being the case, he should like to know how it was that these locomotives had not been indented for sooner than they had been.

THE COMMISSIONER OF RAILWAYS (Hon. J. H. Thomas) said the indent for the two engines required for the Second Section was forwarded from his office on the 3rd August, 1882, immediately after his return from England. They were authorised by the Colonial Office on 15th September, and the tender accepted 8th March, 1883. The following was an extract from the Crown Agents' letter of 6th April:—"As considerable delay has occurred in preparing the specifications for these engines, I may remark that it was in a great measure owing to the difficulty of designing an engine of such power as those now required to run on such light rails as those of the Western Australian Railways."

MR. STEERE: That does not answer the second part of my question.

THE COMMISSIONER OF RAILWAYS (Hon. J. H. Thomas): With regard to rolling stock, we have quite sufficient rolling stock to work the Second Section; the only things required are the locomotives.

MR. STEERE: How does the hon. gentleman propose to work the line without these locomotives?

THE COMMISSIONER OF RAILWAYS (Hon. J. H. Thomas) said he was quite sure they would be out in ample time to work the Second Section of the line. The hon. member need not entertain the slightest fear on that score. There would be no difficulty about that. They would be able to work the section with the present engines, even if the others did not arrive in time. He had not the slightest doubt—he assured the hon. member he need not have the slightest apprehensions—but what they would be able to carry on the traffic on the Second Section.

#### MINING ACT AND GOLDFIELD REGULATIONS.

MR. MARMION, in accordance with notice, moved the following Resolution: "That, in the opinion of this Council, it is desirable that a Mining Act be introduced without delay." The hon. member said he had been requested by several of his constituents to ask the Government to bring forward a measure of this nature, and he thought it was most important that something should be done in this direction. There had been on various occasions rumours to the effect that gold had been discovered in different parts of the Colony, and, the cry of "wolf" having been raised so often, the "wolf" might turn up in reality one of these days. It was quite within the bounds of possibility that we may at any moment hear of the discovery of an alluvial goldfield, or, at any rate, of auriferous reefs. Land had already been taken up in the vicinity of Perth and Fremantle, and money expended with a view of testing the richness or otherwise of what is supposed to be auriferous ground; and, in the event of a goldfield being actually discovered, great confusion might arise as to the management of it, in the absence of any legislation on the subject. He failed to see what was to be gained by postponing the introduction of such a measure. It might necessitate the Legislature being called together to pass a Bill of this kind at a very awkward time, and the Government might as well introduce a Bill at once, so as to have it ready in case of emergency.

THE COLONIAL SECRETARY (Hon. M. Fraser) said he did not rise for the purpose of obstructing the motion but to offer one or two remarks on the subject of gold-mining legislation. Hon. members were aware that in those colonies which had framed and adopted Mining Acts such enactments followed in the wake of Waste Lands Acts, or other statute laws dealing with the lands of the colonies where they were introduced. Our lands here were managed, as hon. members were aware, by regulations which were subject to the approval of the Crown, and these regulations did not in any way apply to auriferous lands, which, in fact, were specifically excluded from the operation of the land regulations

now in force. The question of the expediency of framing regulations applicable to the discovery of gold had not escaped the attention of the Government, and draft regulations had been in part prepared. The framing of a Mining Act, in the sense he understood the hon. member to mean, on the lines of the Mining Acts in force in the other colonies, would necessarily follow the promulgation, under Imperial authority, of goldfield regulations, in order that the board or other body entrusted with the management of the goldfield should be supported by statute law; and, in such a case, a Mining Act would not only be desirable but absolutely necessary. He had had considerable experience in goldfields management, some years ago, in an official capacity, and if, in the opinion of the House, it was desirable that action should now be taken in this direction, he should be happy to do what he could to assist the House in arriving at the object in view. He had not had time to consider whether at this moment it was desirable that a Mining Act should be introduced without delay,—unless some other provision in the shape of goldfields regulations were framed before doing so.

MR. CAREY said there was very little doubt, he thought, as to the necessity of taking some action in this matter. If it had not already arisen it very shortly would arise, as well at the South as in the locality referred to by the hon. member for Fremantle, and he hoped no time would be lost by the Government in introducing such an Act.

MR. MARMION said that what had fallen from the Colonial Secretary proved the necessity of early action in this matter, if, as the hon. gentleman intimated, it would be necessary to refer the question to the Secretary of State, before anything could be done in the way of promulgating these regulations, or of legislating in the direction referred to. It would be very inconvenient indeed, if a goldfield were suddenly discovered, that we should have to wait probably for some months while the Government communicated with the Colonial Office. He thought, at any rate, if we did not go so far as to pass a Mining Act, the Government might be asked to prepare a set of regulations, which might be laid on the Table, in order to elicit the views of the

House with regard to them. These regulations might then be forwarded to the Secretary of State, not with the view of their immediate promulgation,—unless such a step should be considered necessary, but with the view of having such regulations, ready-framed, and ready to put in force, as soon as the necessity arose for doing so.

THE COLONIAL SECRETARY (Hon. M. Fraser) suggested that the hon. member should amend his motion, and introduce it in the shape of an Humble Address requesting His Excellency to submit draft regulations for the working of auriferous lands, for the consideration of the House.

MR. MARMION therefore amended his Resolution, as follows: "That an 'Humble Address be presented to His Excellency the Governor, praying that 'he will be pleased to frame a set of 'draft Regulations for the working of 'auriferous lands, and place the same 'upon the Table of the House for the 'consideration of hon. members.'"

The amended resolution was then put and passed.

#### SUPPLEMENTARY ESTIMATES, 1893.

THE COLONIAL SECRETARY (Hon. M. Fraser), in accordance with notice, moved that the House do now resolve itself into a Committee of the Whole, to consider certain expenses requisite to be incurred during the current year beyond the amount authorised by the Appropriation Act.

MR. S. H. PARKER said that, under the provisions of the Audit Act, whenever the Governor proposed to exceed the expenditure authorised by the Estimates, he was empowered to ask the opinion of the Committee of Advice as to the necessity of such expenditure. This had been done, in a great many instances, and most of the items now placed on the Supplementary Estimates had been placed before the Committee of Advice, who, from time to time, had expressed their opinion, in writing, as to the expediency or necessity of incurring such expenditure. These opinions, being in writing, were, he presumed, of record in the Colonial Secretary's Office, and it appeared to him it was very desirable that, in considering the Supplementary

Estimates, the House should have the written opinions of the Committee of Advice before it. He therefore rose for the purpose of proposing an amendment. He believed it was one of the privileges of members, when a motion was made for going into Committee of Supply, to propose any amendment, without notice, and he now wished to exercise this privilege by moving, "That in the opinion of this House it is desirable that the opinions expressed by the Committee of Advice, acting under the provisions of the Audit Act, with reference to many of the items included in the Supplementary Estimates now before the House, be laid on the Table, before the House resolves itself into a Committee of the Whole to consider these Estimates." If, as he understood, the Colonial Secretary was prepared to place these opinions on the Table, he did not know that there was any necessity for him to proceed any further with his amendment; but he did think that, before going into Committee of Supply, hon. members should not only have these opinions placed before them, but that they should also be printed, so that, when the various items of expenditure came to be confirmed, hon. members may have the printed opinions of the Committee of Advice before them.

THE COLONIAL SECRETARY (Hon. M. Fraser) said he was in the hands of the House in the matter entirely; at the same time, looking at the delay that might occur in obtaining and printing these written opinions, he did not know whether the House would care to wait for their production before proceeding with the Estimates. He had all the papers relating to the various items of expenditure before him, and was prepared to furnish the House with every information; nevertheless, if it was the wish of hon. members to have these papers printed, he was quite willing to consent to an adjournment, until hon. members had an opportunity of perusing them.

The motion for going into Committee was then put and negatived.

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

## LEGISLATIVE COUNCIL,

*Monday, 30th July, 1883.*

Report of Select Committee on Excess Bill, 1882—Sandalwood areas, Victoria District—Repair of Flagstaff, Geraldton—Money spent on Medical Officer's quarters, Geraldton—Conveyance of Mails between Geraldton and Roebourne—Aboriginal Native Offenders Bill: first reading—Payment of Native Witnesses—Terminus of Northern Railway at Northampton—The Auditor General and the Audit Act: As to carrying out provisions of the Act—Boat Licensing Bill: second reading—Message (No. 6) referred to Select Committee—Grand Jury Abolition Bill: third reading—Reply to Message (No. 7): Calcutta Exhibition—Reprint of Statutes—Adjournment.

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

### PRAYERS.

### REPORT OF SELECT COMMITTEE ON EXCESS BILL, 1882.

MR. SHENTON brought up the report of the Select Committee to whom the Excess Bill, 1882, had been referred.

### SANDALWOOD AREAS: VICTORIA DISTRICT.

MR. WITTENOOM, in accordance with notice, asked the Colonial Secretary, "Why no steps were taken to carry out the suggestions of the Government Resident of Geraldton, with regard to shutting up land to prevent the cutting of immature sandalwood; which suggestions were embodied in a letter dated the 21st December, 1882, and gathered by him at great trouble from the leading persons in the Victoria District connected with the sandalwood business?" The hon. member said that since these suggestions were made, at least a hundred tons of very poor wood had been cut down, which was so much waste and loss to the district.

THE COLONIAL SECRETARY (Hon. M. Fraser) replied that by a letter dated 21st November last, the Government Resident at Geraldton (in reply to a circular of a previous date) recommended that a block of country, the boundaries of which were shown on a map which accompanied the letter, should be closed against sandalwood cutters. This letter and map had now been referred to the Surveyor General for his opinion.