

PAUPER RETURNS.

The COLONIAL SECRETARY (Hon. F. P. Barlee) laid on the Table of the House the following pauper returns moved for by Mr. Drummond:—

Perth, 20th December, 1870.

Return of all Paupers receiving aid from Colonial Funds, distinguishing those who were originally Convicts.

Paupers in receipt of relief from Colonial Funds this day— 246.
Of the above, 47 males were originally convicts.

J. FERGUSON.

Officer in Charge of Poor House.

ADJOURNMENT.

Mr. DRUMMOND suggested that the House adjourn until the 2nd January.

Mr. STEERE moved that the House adjourn until Wednesday, 28th inst.

A long desultory conversation ensued, interspersed with no small amount of senatorial "chaff" during which time the Hon. the Colonial Secretary, the Hon. the Attorney General, and the Hon. the Surveyor General retired.

The question was put and a division was called for, the result being as follows:—

Ayes 7
Noes 7

Ayes.	Noes.
Mr. Carr	Mr. Newman
Mr. Shenton	Mr. Drummond
Mr. McKail	Mr. Gull
Mr. Bussell	Mr. Marmion
Mr. Brown	Mr. Moore
Mr. Logue	Mr. Monger
Mr. Steere (Teller.)	Mr. Phillips (Teller.)

The voting being equal, the SPEAKER gave his casting vote with the Ayes.

Question thus passed.

The Council adjourned.

LEGISLATIVE COUNCIL,

Wednesday, 28th December, 1870.

Papers Tabled—Survey Department Returns—Sale of Fermented and Spirituous Liquors Bill: in committee—14th Victoria, No. 6, Amendment Bill: second reading: in committee—Municipalities Bill: third reading—Aboriginal Natives Pearl Shell Fishery Bill: third reading—Bankruptcy and Insolvency Bill: recommittal: in committee: third reading—Railway and Telegraph Bill: second reading: in committee—Third Readings.

The SPEAKER took the Chair 4 p.m.

PRAYERS.

PAPERS TABLED.

The COLONIAL SECRETARY (Hon. F. P. Barlee) laid on the Table of the House a circular despatch from the Secretary of

State, enclosing an English Act to amend the laws relating to compulsory vaccination.

Also, certain letters from Mr. Thos. H. J. Browne containing a proposal to reopen a canal to the west of Cliff Street, Fremantle, joining the sea at or near the north and south jetties; the other communication from Mr. Browne was with reference to a proposed line of railway hence to the Eastern District.

The documents were read by the Clerk.

The COLONIAL SECRETARY (Hon. F. P. Barlee) stated that he placed Mr. Browne's letter on the table for the information of the House, as they contained proposals to undertake works of considerable magnitude. The Government did not think it necessary to take any steps in the matter, and he could offer no opinions as to Mr. Browne's capabilities. Having placed them before the Council, it would be for them to say if they would take any steps in the matter or not. With reference to a despatch read a few days since enclosing a petition from Mrs. Broun, it was not the intention of the Government to grant that lady any assistance from the public funds. It would be necessary however, for the House to take some action in the matter, so as to enable the Governor to frame a reply thereto, and to show the Secretary of State that the paper referred to has been placed before the Council.

SURVEY DEPARTMENT RETURNS.

Mr. SHENTON, in accordance with notice, moved that the following return be laid on the Table of the House:—Any correspondence there may be relative to the appointment of a Deputy Surveyor General, tending to show what the duties of the office are. A return showing the number of days the Deputy Surveyor General has been actually in the field, defining the service then performed by him. Such return from the date of his arrival in the colony up to the present time.

The SURVEYOR GENERAL (Hon. M. Fraser) laid upon the Table of the House the returns moved for by Mr. Shenton, which papers had been forwarded to him by Captain Roe.

SALE OF FERMENTED AND SPIRITUOUS LIQUORS BILL.

In Committee.

Mr. STEERE moved the following amendments:—

Clause 1—

That it shall be lawful for any justice of the peace, upon an information being laid before him on oath that any

unlicensed person or persons are suspected of selling, or otherwise disposing of, spirituous liquors, to cause to be affixed or posted up on the court house door, police station, or some other conspicuous place, in their respective districts, a list of the name or names of persons so suspected of selling spirituous or fermented liquors in the manner above stated.

Clause 2—

In the second line, to insert between the words "the" and "cart" the word "person." In the fifth line, to insert between the words "found" and "in" the words "on any such person or persons."

Clause 3—

In the seventh line, to strike out the words "the person," and to insert instead thereof the words "any such unlicensed person or persons."

Amendments agreed to.

Bill reported, with amendments.

14th VICTORIA, No. 6, AMENDMENT BILL.

Second Reading.

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

The COLONIAL SECRETARY (Hon. F. P. Barlee) rose and said that as a notice of motion that "this Bill be read a second time this day six months" stood in his name on the notice paper he was required to come forward and assign his reasons for the expulsion of the Bill. He did so believing that it was fraught with danger and difficulty, because it was wrong in principle, because it would prove inoperative, and would not meet the wishes of the honorable member who brought it forward, because it would prove prejudicial to the best interests of the colony in many ways, and lastly, as it would be highly prejudicial to those persons whom it was intended to serve. The Bill in the first place was wrong in principle because it was "class legislation," which they ought carefully to avoid. Now by this Bill it was intended to give power to justices of the peace to hear charges against ticket of leave men which they could not hear against free men; that in his opinion was class legislation. If a ticket of leave man while at large commits an offence cognizable by the law, he is brought before a justice of the peace and dealt with according to the law. He was quite aware, and it was admitted by all that it was necessary to have laws to punish men in prison different from those adopted for free men, but that was not class legislation, but it would be class legislation to give

magistrates power to hear charges against a ticket of leave man which he could not hear against a free man. When a ticket of leave man goes out of prison he is still a prisoner, he is only a prisoner at large, and while at large his conduct might be such, that though he would not commit himself so as to bring himself within the pale of the law, yet it might be deemed advisable by the Governor not to allow him to remain at large, and the Governor at the present time has that power. Now it was proposed to take that power away; that is the aim and intention of the Bill, and was about as reasonable as the proposal that had been made in the House a few days since, that the Auditor General and the Governor should change places. The whole thing was exceedingly wrong. In England the law referring to the ticket of leave class gave power to grant and revoke at pleasure, tickets of leave, and was in every way a much more stringent law than the one it was proposed to alter here. The Bill, before them, there could be no doubt, intended in every way to take that power out of the hands of the Crown. It is now in the power of any person to bring under the notice of the Government the conduct of any ticket of leave man, and he did not know a single instance when that had been done, that inquiry had not been made, and the question whether his ticket of leave should be revoked or not considered. Now this Bill says the chief magistrate of the colony is not to do that unless he is recommended to do so by some subordinate! He would now speak to the second point, that the Bill would be inoperative. Had the honorable gentleman carefully read the Bill; had he consulted a lawyer, he would have found that it would be as much use in the Statute book as a blank sheet of paper. No code of laws could define immoral conduct. How could immoral and disorderly conduct be defined in the case of a ticket of leave man, and not in the case of a free man? It is evident the whole Bill would be inoperative. He could not conceive how a magistrate could take information of immoral and disorderly conduct in a ticket of leave man and not in a free man. It was class legislation to bring up a ticket of leave man for an offence, not cognizable by the law, and for which a free man could not be brought up. Ticket of leave men have the rights of British subjects, as long as they behave themselves, and their tickets are only revoked after strict inquiry by the Governor and by the Governor only. This Bill would be prejudicial to the interests of the colony, inasmuch as it was desirable to abolish the dual system of Government here, to take over the management of the convicts

themselves, but he would warn the Council that if they passed that Bill the Home Government would not entertain the proposal to hand over to the colony the management of the convicts. If the Bill is passed the question of taking over the convicts is at an end. That Bill proposed to take away from the Governor that power which was given him by express command of the Home authorities, and to deprive him of all power whatever in the management of the convict class. He warned the Council now of what would be the result if the Bill was pressed so that they could not plead ignorance of it hereafter. The Bill would prove prejudicial to the convicts themselves whose interests it was intended to serve, because the first step would be that the Government would withdraw into prison a large number of men who now enjoy liberty, and who by their good conduct have gained comfortable positions in society. He did not speak on authority when he said that that would be the result of the Bill, but he believed that that would be the course pursued by the Government. He did not think hon. members had well considered the result of the Bill, but they cannot say he has not spoken plainly and distinctly thereon. The Bill would be inoperative—it was class legislation—it would be baneful to the interests of the colony, and prejudicial to those persons whom the Bill was intended to serve. If the Bill was pressed his duty was clear.

He then moved the motion that "this Bill be read a second time this day six months."

The SURVEYOR GENERAL (Hon. M. Fraser) seconded the motion.

Mr. DRUMMOND stated that in bringing forward the Bill he had not the slightest intention of depriving the Governor of any power whatever. What he intended was that when any ticket of leave man was charged with any misconduct he should be brought before a magistrate and tried, and if necessary revoke his ticket, because a magistrate knew more of the case than the Comptroller General could possibly know. He had no intention of introducing class legislation, all he wanted, was simple justice. If a ticket of leave man stole 1lb. of tea he was brought before the magistrate, tried, and punished accordingly. In the same manner if the police brought a charge of disorderly conduct against a ticket of leave man, bring him before a magistrate and hear the man in defence, inasmuch as a magistrate is no more subordinate than the Comptroller General. At the present time the conduct of a ticket of leave man could be brought before the notice of the Comptroller General who would revoke his ticket without even hearing the man in

his defence. On the other hand, he could name cases in which complaint of the conduct of ticket of leave men has been made to the Comptroller General and the reply has invariably been "apply to the police magistrate." In his capacity of police magistrate he knew that a late Comptroller General acted most unjustly and he has refused to send men to headquarters in consequence. His only object in bringing forward the Bill was to do an act of justice, no more; and he could not understand the difference between being brought before a magistrate and being subject to the Comptroller General. He still adhered to his former opinion that the Bill would be doing an act of justice to a large body of well conducted men.

Mr. STEERE seconded the introduction of the Bill brought forward by the hon. member for Toodyay, believing that it would be a great improvement on the existing law. The Hon. the Colonial Secretary objected to the Bill because it was class legislation. Was not the Bill which it was now proposed to amend class legislation? As the Bill now before the House was to amend class legislation it could not be objected to on that account. The Hon. the Colonial Secretary also observed that this Bill intended taking the power from the Governor and giving it to subordinates. He was glad the hon. member for Toodyay dwelt upon the word "subordinate." He looked upon the term as disparaging at least to the independent magistrate.

The COLONIAL SECRETARY (Hon. F. P. Barlee): You're subordinate to the Queen.

Mr. STEERE said that he was not subordinate to any one. The magistrates could define immoral and disorderly conduct as well as the Governor or the Attorney General. No member of the House wished to take any power out of the Governor's hands; what they wanted was to take the burden off his shoulders. He did not believe the Bill would interfere with the motion which he hoped would be brought before the Council to take over the management of the convicts. The first thing they had to do was to do justice, and that was the spirit of the Bill of the hon. member for Toodyay.

The ATTORNEY GENERAL (Hon. R. J. Walcott) stated that the hon. member for Toodyay who introduced this Bill said his sole object was to do justice to persons holding tickets of leave. If that was his sole object he would like to know what these words in the Bill intended:—"That from and after the passing of this Act it shall not be lawful for the said Governor to revoke the ticket of leave of any convict, for any immoral or disorderly conduct, unless the

holder thereof shall have been duly heard in his defence, &c., before one or more justices of the peace." Was this clause, he asked, consistent with the words of the hon. member, when he said the Bill was intended merely to bring to the notice of the Governor the misconduct of the ticket of leave man? This Bill bears upon the face of it a determination on the part of those who support it, to take away from the person who now grants tickets of leave the power of revoking such tickets of leave! The wording of the Bill is plain and simple. He would read them again. Having read the clause it must be clear that it is not only intended to restrain but in fact to take away from the Governor the power of revoking tickets of leave in cases of misconduct. The preamble of the Bill was not more explicit on that point, and the preamble should have explained that it was expedient to take from the Governor the power he now had and vest it in some other person! He was astounded, exception should be taken to the word "subordinate" and hon. members should manifest such ire when it was mentioned. They were all subordinate to the Governor. The person who conferred upon them the office of justice of the peace can take that away from them—therefore they were subordinate. He agreed with the Hon. the Colonial Secretary that the Bill was class legislation, and that no code of laws could define what was immoral and disorderly conduct. It was class legislation no doubt when it was directed upon the criminal class, who were a prey upon society. It was necessary. He considered the Bill a direct attack upon the authority of the Governor, who was the representative of the Queen in this colony.

Mr. LOGUE considered there was a vast difference between legal sense and common sense. He thought the Comptroller General should not have the power to send a man back to prison without the concurrence of one or two justices of the peace.

Mr. DRUMMOND said he had no intention of withdrawing any power from the Governor. He would withdraw the Bill and bring in another.

Mr. STEERE said that it was not competent for the hon. member to bring forward another Bill this session.

Mr. GULL considered the magistrates were as capable of forming an opinion of the conduct of ticket of leave men; in fact, better able than the Comptroller General, and revocation of tickets of leave should rest with them.

Mr. BROWN would like to see the Bill brought forward in some other form. After

the explanation of the Hon. the Colonial Secretary and considering the relation of the colony with the Home Government he would oppose the Bill.

Mr. SHENTON considered there was no desire expressed or implied to interfere with the power of the Governor. What was desired was to allow magistrates to do what was done by the Comptroller General.

The COLONIAL SECRETARY (Hon. F. P. Barlee) was satisfied the hon. member for Toodyay did not wish to interfere with the powers vested in the Governor, but still the Bill if passed would have that effect. The hon. gentleman then reviewed the arguments that had been adduced, and urged the rejection of the Bill as it would only damage the criminal class.

Mr. McKAIL said there was no desire to interfere with the Governor's prerogative, but ticket of leave men should be protected from an arbitrary power.

Mr. DRUMMOND suggested that the debate be adjourned until Friday next.

Motion put, "That this Bill be read a second time this day six months," upon which a division was called for, the result being as follows:—

Ayes	5
Noes	8

Majority against	3
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Ayes.	Noes.
The Hon. R. J. Walcott	Mr. Steere
The Hon. M. Fraser	Mr. Gull
Mr. Phillips	Mr. Shenton
Mr. Brown	Mr. Carr
The Hon. F. P. Barlee	Mr. McKail
(Teller.)	Mr. Moore
	Mr. Logue
	Mr. Drummond (Teller.)

The SPEAKER: I think the Noes have it!

The COLONIAL SECRETARY (Hon. F. P. Barlee): I doubt it!

The SPEAKER: That means another division!

Motion thus negatived.

Question put, "That the Bill be now read a second time," upon which a division was called for, the result being as follows:—

Ayes	7
Noes	6

Majority for	1
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Ayes.	Noes.
Mr. Carr	Mr. Steere
Mr. Gull	The Hon. R. J. Walcott
Mr. Logue	The Hon. M. Fraser
Mr. Shenton	Mr. Brown
Mr. Moore	Mr. Phillips
Mr. McKail	The Hon. F. P. Barlee
Mr. Drummond	(Teller.)
(Teller.)	

Question thus passed.

The Bill was read a second time.

Sitting suspended until 8 p.m.

In Committee.

Clause 1—

Mr. McKAIL proposed to strike out clause 1 and substitute another, which he read.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said they had already an instance that day of a Bill being read a second time, and then it was found to be totally at variance with the intention of the mover. Now the hon. member for Albany proposed to strike out the operative part of this Bill and introduce a new Bill. The hon. member must be guided by the Rules of the House. There was now no Bill before the House.

Mr. SHENTON disagreed with the Hon. the Attorney General. He said the Bill was only amended in form.

The ATTORNEY GENERAL (Hon. R. J. Walcott): It is a new Bill altogether.

Mr. SHENTON: Merely an alteration in the same words.

The ATTORNEY GENERAL (Hon. R. J. Walcott): Clause 1 was the whole Bill. Strike that out and what had you to amend? I am really astonished at hon. members.

Mr. GULL did not think the hon. member for Albany intended to strike out the whole Bill; only to alter a few words.

The CHAIRMAN: It is so in effect. The hon. member for Albany now proposes an entirely new clause.

Mr. McKAIL said he merely left certain words out, and used others in their stead.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that legislation never could be carried on in that way; they will never come to an end. Members ought to know their own minds and come to the House prepared. The hon. member had the Bill in his possession a whole week, and now did not know the meaning of it. If they continued in that way, they would never proceed with the business the country demanded.

Mr. LOGUE: One clause is not the Bill!

The ATTORNEY GENERAL (Hon. R. J. Walcott): That may be a common-sense opinion; it is not a legal one.

Mr. LOGUE: Very probably.

Mr. McKAIL endeavored to read his amendment, but whether from bad calligraphy or interlineation, he did so in such a manner that he was not understood.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said he would ask hon. members if they understood that amendment; he could not. He could not see what the hon. member was driving at. He would really submit it to the good sense of the House not to proceed, but give hon. members time to know their own minds, as at present they did not. The

Bill and the amendment were totally at variance with the hon. gentleman's speeches. He deprecated haphazard legislation and he would ask the hon. gentlemen to take time and make up their minds.

Mr. McKAIL said that what was wanted was that no ticket of leave man should be convicted and returned to the establishment without having had a fair trial.

The ATTORNEY GENERAL (Hon. R. J. Walcott) asked what was the hon. gentleman's meaning? No ticket of leave man was returned to prison without the Governor's order.

Mr. McKAIL explained that he had no intention of interfering with the Governor.

The COLONIAL SECRETARY (Hon. F. P. Barlee) agreed with the Hon. the Attorney General that they ought not to legislate at haphazard. It was clear hon. members did not know what they intended. It was evident nothing could be done that night. No progress had yet been made. They could not throw out the Bill, it having passed the second reading. Any amendments brought forward should not interfere with the principles of the Bill.

Mr. DRUMMOND supported the amendment of the hon. member for Albany.

Mr. STEERE would not accept the ruling of the Hon. the Colonial Secretary. The House would not accept his ruling for their guidance.

Progress reported, and leave obtained to sit again.

MUNICIPALITIES BILL.

Third Reading.

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

The Bill was read a third time and passed.

ABORIGINAL NATIVES PEARL SHELL FISHERY BILL.

Third Reading.

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

Mr. LOGUE objected to the third reading of the Bill.

Question put, "That the Bill be now read a third time," upon which a division was called for, the result being as follows:—

Ayes	9
Noes	3
Majority for	6

<p>Ayes. The Hon. M. Fraser The Hon. R. J. Walcott Mr. Drummond Mr. Phillips Mr. Brown Mr. Shenton Mr. Steere Mr. McKail The Hon. F. P. Barlee (Teller.)</p>	<p>Noes. Mr. Gull Mr. Moore Mr. Logue (Teller.)</p>
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Question thus passed.

The Bill was read a third time and passed.

BANKRUPTCY AND INSOLVENCY BILL.

Recommittal.

Mr. STEERE moved to recommit the Bill for the purpose of amendment.

Question put and passed.

In Committee.

Mr. STEERE moved the following amendment—

Clause 63—

To add the following words: "any scale of fees made in pursuance of this section shall be laid before the Legislative Council within three weeks after they are made, if the Legislative Council be then sitting; and if the Legislative Council be not then sitting, within three weeks after the beginning of the then next session of the Legislative Council."

Amendment agreed to.

Bill reported, with a further amendment.

Third Reading.

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

The Bill was read a third time and passed.

RAILWAY AND TELEGRAPH 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.

THIRD READINGS.

The following Bills were read a third time and passed, on motions by the Colonial Secretary (Hon. F. P. Barlee): Fraudulent Debtors Bill, Lunacy Bill, Capital Punishment Bill, and Electro-Magnetic Telegraph Company Bill.

The Council adjourned at 9.15 p.m.

LEGISLATIVE COUNCIL,

Thursday, 29th December, 1870.

Local Boards Bill: select committee report—Wild Horses and Cattle Nuisance Bill: first reading.

The SPEAKER took the Chair at 4 p.m.

PRAYERS.

LOCAL BOARDS BILL.

Select Committee Report.

Mr. STEERE brought up the first report, and moved that the same be printed.

Question put and passed.

WILD HORSES AND CATTLE NUISANCE BILL.

First Reading.

Mr. STEERE, in the absence of Mr. PHILLIPS, the member in charge of the Bill, and in accordance with notice, moved for leave to bring in a Bill for abating the wild horses and cattle nuisance.

The Bill was read a first time.

The SPEAKER informed the House he had just received a telegram from Mr. Phillips, who was detained in Fremantle.

The Council adjourned at 4.15 p.m.

LEGISLATIVE COUNCIL,

Monday, 2nd January, 1871.

Notice of Motion—Paper Tabled—Police Ordinance, 1861, 35th Section Repeal Bill: first reading—Thompson's Road Steamer: in committee—Vaccination—Estimates: in committee—Assent to Bills: Message from the Governor, No. 4—Classification of Clerks—Estimates: in committee.

The SPEAKER took the Chair at 4 p.m.

PRAYERS.

NOTICE OF MOTION.

Mr. NEWMAN said that he presumed his notice of motion for Thursday last lapsed in consequence of his being absent on that day.

The SPEAKER: No person brought it forward.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said the best answer to the hon. gentleman's question would be to place upon the table the estimate of expenditure which he called for.

PAPER TABLED.

The COLONIAL SECRETARY (Hon. F. P. Barlee) placed on the Table of the House some correspondence that had taken place between the Western Australian Telegraph Company, the Electro-Magnetic Telegraph