

### PASSAGES OF PUBLIC OFFICERS.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved that it is the opinion of the Council the question of the payment of passages of persons in England appointed to Public Offices in the colony be left to the discretion of His Excellency the Governor in Council, on the understanding that in no instance shall a sum larger than £100 be authorised for such service.

Question put and passed without discussion.

### SERICULTURE.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved that with a view to encouraging the growth of the mulberry and the introduction of sericulture on a large scale, the Council is of opinion that a bonus of £2,000 be offered to the person who first exported half a ton of cocoons bearing silk of good quality produced by him in the colony within five years from the first day of March, 1871.

A brief discussion ensued, Mr. NEWMAN and Mr. STEERE contending that the bonus was much too high.

The SURVEYOR GENERAL (Hon. M. Fraser), as an amendment, moved that the bonus be £500 instead of £2,000.

Amendment put and passed.

Question, as amended, put and passed.

### CHILDREN OF WARDER GRAHAM.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved that in the opinion of the Council some assistance may fairly be rendered from public funds towards the passage to, and maintenance at the Victorian Deaf and Dumb Institution of two children of a convict warder named Graham, whose family consists of six children, four of whom are deaf mutes.

Mr. NEWMAN, Mr. SHENTON, and Mr. GULL spoke in favor of the motion which was unanimously agreed to.

### JURIES AMENDMENT BILL.

#### First Reading.

The ATTORNEY GENERAL (Hon. R. J. Walcott), in accordance with notice, moved for leave to introduce a Bill to amend the laws relative to juries.

The Bill was read a first time.

The Council adjourned at 10.50 p.m.

### LEGISLATIVE COUNCIL,

Friday, 28th July, 1871.

Elementary Education Bill: select committee report—Marine Surveys—Distillation Bill: recommitment: third reading—Superannuation Bill: second reading—Mason, Bird, and Company—Juries Amendment Bill: second reading—Superannuation Bill: in committee—Juries Amendment Bill: in committee.

The SPEAKER took the Chair at 6 p.m.

#### PRAYERS.

The Minutes were read and confirmed.

### ELEMENTARY EDUCATION BILL.

#### Select Committee Report.

The COLONIAL SECRETARY (Hon. F. P. Barlee) brought up the report. In presenting the report he said—Your committee having fully and carefully considered the various provisions in the abovenamed Bill, have the honor to report to your Honorable House as follows:—1. That they recommend the central board of education should consist of five laymen, all of whom should be nominated by the Governor and not elected by the people, and that, exclusive of the chairman, no two members shall belong to the same religious denomination. 2. That the district boards of education should consist of five members, to be elected in the manner provided in the amended Bill. 3. That the powers and duties of the central and local boards be more clearly defined, in the manner Your Committee have pointed out in the amended Bill which accompanies their report. 4. That power be given to the central board to appoint district boards in those districts where elections have not been held, to declare elected district boards in certain cases to be in default, and to fill up vacancies that may occur in district boards. 5. That the instruction to be given in Government schools be not less than five hours a day, four of which shall be devoted to secular instruction, and that no religious catechism or religious formulary distinctive of any particular denomination be taught in any Government school. 6. That Government schools be supported from public funds by a grant per annum not exceeding £2 15s. for each child taught therein for 180 days in each year, and a further grant of 5s. for books, maps, &c.; and that assisted schools be aided from the same source by a grant for each child on similar conditions of £1 7s. 6d. 7. That no grant for building purposes should be made to any assisted school. 8. That in the foregoing recommendations your committee concurred—but a difference of opinion arose on

the question of adopting the time-table conscience clause in Mr. Forster's Education Act; Mr. Steere proposing, with the support of Messrs. Bussell and Newman, that it be made applicable to all schools, whether Government or assisted schools; but it was contended by Messrs. Logue, Marmion, and Monger that it was unreasonable to enact the same restrictions in assisted as in Government schools, in the absence of similar advantages. The chairman gave his casting vote in favor of the amendment of Mr. Logue. 9. That subsequently Mr. Newman proposed an additional section in the following words: "All assisted schools shall be liable to the same supervision in all and every respect during the four hours of secular instruction as Government schools, except the appointment of teachers." This was lost on the same grounds as Mr. Steere's proposition, the majority of your committee being of opinion that it would be unwise to interfere too closely with the management of assisted schools, the promoters of which could claim no aid from public funds in the absence of a satisfactory report from the Inspector of Schools as to secular instruction, and as section 26 of the Bill submitted to your committee enacts that assisted schools in a district where no Government school exists shall be subject to the time-table conscience clause and all other regulations (except payment) appertaining to Government schools.

On the motion of the Colonial Secretary, consideration of the report was made an Order of the Day for Wednesday, the 2nd August.

#### MARINE SURVEYS.

Mr. BUSSELL, in accordance with notice, moved that the Council do resolve itself into a Committee of the whole to take into consideration the following resolution:—

That an humble address be presented to His Excellency the Governor requesting him to cause a sum of money to be placed on the Estimates for certain marine surveys.

The COLONIAL SECRETARY (Hon. F. P. Barlee) suggested that the most appropriate time for taking the question of marine surveys into consideration would be when the subject of public works was brought before the House.

Mr BUSSELL said he had no objection to the postponement of his motion until the time specified, and so moved.

Question put and passed.

#### DISTILLATION BILL.

Recommittal.

The ATTORNEY GENERAL (Hon. R. J. Walcott) moved to recommit the Bill for the purpose of amendment.

Question put and passed.

In Committee.

After some further discussion in Committee, the Bill was agreed to, with further amendments.

Bill again reported, with further amendments.

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.

#### SUPERANNUATION BILL.

Second Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in moving that the Bill be now read a second time, said that it had been introduced at the last session of the Council, but was rejected on the ground that it proposed to give too much power to the Executive Council, the majority of the members of which, at that time, were not amenable to the House. The constitution of the Executive had since then been altered, and the objection urged against the Bill had therefore been removed.

Mr. STEERE expressed his surprise at seeing the Bill reintroduced. The reason that the measure was rejected at the last session was because the House had no confidence in the Executive Council. Two members of that Council had subsequently retired, and he would be very sorry indeed to think that those two gentlemen should now find him supporting the introduction of the Bill, which would, to say the least, be casting a serious reflection upon their character. The measure was objectionable in many respects. It proposed to give far greater power to the Executive Council than the House ought to acquiesce in. Clause 2 might be designated by a similar epithet as that applied by the hon. member for Fremantle to a clause in the Education Bill—it was monstrous. It proposed that any officer who had held an appointment in the Public Service for 20 years should, upon retiring, acquire an additional 20 years to the term he had already served, in computing the amount of superannuation allowance to which he would be entitled. There was no justice in a clause of that sort; on the contrary, it was a

great injustice to the colony. Another objectionable clause was the eighth, which proposed that the Executive Council—an entirely irresponsible body—should be empowered to grant to any person, in certain cases, any superannuation, compensation, gratuity, or other allowance of a greater amount than the actual amount which he might be ordinarily entitled to under the provisions of this Bill, and that too, without consulting the Legislative Council at all. That was a power which he would never consent to grant to any Executive Council. When the Hon. the Colonial Secretary intimated his intention of again introducing a Superannuation Bill, he thought that its provisions would be very different to those contemplated in the present measure. He would be glad if the House again rejected it.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that the only apparent objection to the Bill was the "monstrous" clause 2. He could not see its monstrosity. It provided that when special services rendered in individual cases required special reward the Governor in Executive Council might be empowered to grant to such person such increased allowance as the specialities of his case rendered justifiable, but that no such allowance should in any case exceed the salary and emoluments enjoyed by the grantee at the time of retirement. Moreover, it provided that the grounds of every such increase should be stated by a minute of the Governor in Council, which should be laid before the Legislative Council. Where was the monstrosity of the clause? Was it "monstrous" that a professional gentleman, who abandoned his profession, with all its emoluments and honorary distinctions, to enter the Public Service should, after 20 years in that service, be entitled to a retiring allowance computed at an additional 20 years? Was it so very "monstrous" that a gentleman educated for the army, and who had before him a glorious military career, ending, possibly, in a field-marshalship, or a gentleman trained for the navy, with the prospect of an admiralship-of-the-fleet, or one educated for the church, with the chance of preferments and rich livings, and an archbishopric in prospective, or a gentleman trained for the bar, with a lucrative and an honorable practice in store, and the woolsock within his reach; was it, he would ask, so very "monstrous" that such persons, abandoning all hopes of preferments, promotions honors, and emoluments, to take office in a Colonial service, and devoting their time and abilities to that service, should, when old age and infirmity overcame him, be granted some compensation or gratuity beyond the bare pittance which their special ser-

vices would entitle them to? He certainly failed to see that the clause was so "monstrous" as the hon. member for Wellington had characterized it.

Mr. NEWMAN thought that in the present state of the colony it was undesirable to pass such a measure as that before the House. Indeed, with some few exceptions, he never could understand why the civil servants of a Government should be entitled to pensions at all. All who enter the Public Service do so with a full knowledge of the emoluments they shall become entitled to. Their hours of labor are few, and they have a great deal of spare time on their hands, whereby, if they deem proper, they may supplement their incomes. They have, moreover, a respectable social status by virtue of the position they hold. They voluntarily enter the service with their eyes wide open, knowing what to expect in regard to salaries and promotions, which are on a regulated scale, and he saw no reason why—except, as he had before observed, in exceptional cases—they should be allowed any pensions or retiring allowances at all. Moreover, the Bill under consideration was not only retrospective, but prospective in its provisions, and on this and other grounds he would resist its progress through the House.

Mr. BROWN said that the simple object of the Bill was to regulate superannuation and other allowances to persons having held office in the permanent Civil Service of the colony. It was perfectly true, as the hon. member for Fremantle had observed, that gentlemen entering that service did so with their eyes open, and thought that they would be, as regards superannuations and pensions, on the same footing as public servants in the mother country. Last session there existed very fair grounds for rejecting such a Bill, but the objections that then obtained had been removed. Though himself as jealous of the honor and powers of the House as any hon. member present, he saw no reasonable objections in placing in the hands of the Governor in Executive Council the powers which the present Bill provided, as regarded the diminution of allowances on the one hand, and increased compensation in special cases on the other. He thought it was clearly the duty of the House to agree to the measure before them; he would give it his support.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that if anything could astonish him it was the remarks that had fallen from the lips of the hon. member opposite (Mr. Steere.) At the last session of the Council the hon. member resisted the Superannuation Bill on grounds which he (the Colonial Secretary) then accepted, because he thought it was but

reasonable that the House should object to grant powers of dealing with the public funds to the Executive Council which, from the nature of its constitution at that time, could not be rendered amenable to the House for its actions. If the hon. member entertained any other objections at the time he would have urged them. The objection raised on that occasion had subsequently been removed, and, with the exception of one member, who was not at all likely to take any part in financial matters, all the Executive were members of that House, and were there present to answer for their actions. Notwithstanding all this, the hon. member expresses his surprise that the Bill had been brought forward again, and now raises other objections to its introduction. In all probability, if the measure was thrown out again this session, and remodelled and introduced next session, the hon. member would again find some other objections to its adoption by the House. So far as the Government was concerned it was really immaterial, to a certain extent, whether the Bill passed or not, as its rejection would not affect the superannuation allowance of any public officer in the Colonial service at the present time. The sole object of the Bill was to do an act of justice to public servants who had honestly and faithfully served the colony, by placing in the hands of the Council the power of rewarding them, and not to take that power away, as intimated by the hon. member opposite. Those gentlemen who had entered the Public Service of this colony when it was a Crown colony did so on the distinct understanding that if they loyally served their adopted country they would, after a certain length of service, become entitled to pensions; and not anticipating that, if the constitution of the colony changed, they would be begrudged their allowances. He might state for the information of the House that if it deemed proper to reject the Bill, and withhold its approval for the granting of superannuations to the public funds of the colony, Her Majesty's Government, having, and wisely, retained the control of the Crown lands, would, out of the funds accruing from the sale of such lands—power over which was only held on sufferance by that House—grant such pensions and allowances as the public servants of the colony were entitled to. The hon. member for Fremantle was averse to the granting of pensions at all to public servants, except in special instances, asserting as his reasons, that officers holding Government appointments has undertaken their duties with their eyes open, and that those duties involved the devotion of only a few hours for their discharge; thus affording an opportunity for public

officers to supplement their incomes from other sources. In many cases, the Civil Service regulations prohibited officers holding Government appointments to embark in any other business, and their salaries were exceedingly small compared with the emoluments derived by professional gentlemen. A numerous class of persons, however, preferred a certain fixed salary to a precarious and uncertain income, and were content to regulate their mode of life in accordance with their limited pay. The same hon. member had asked whether the Bill was prospective as well as retrospective in its application. He would reply that in some measure it was; but, as he had previously observed, so far as the superannuations of existing civil servants of the Government were concerned, the adoption or rejection of the Bill would be immaterial, while on the other hand, it was competent for the House to do as it pleased in regard to the pensions and allowances of officers who might hereafter enter the Public Service. He was sorry that any obstruction was placed in the way of the progress of the measure through the House, and that there was an inclination to repudiate the claims of the public servants of the colony, simply in consequence of a modification in the constitutional form of Government. It would not be fair, it would not be just, he might say, it would not be honest on the part of the Council to ignore and repudiate those claims. The hon. member for Wellington had objected simply to two clauses in the Bill—clauses 2 and 8. His honorable colleague the Attorney General had very clearly explained the object of the former clause, which, he might add, was very seldom acted upon even in England, where they were not disposed to be over generous towards retiring public servants. He knew of nothing in regard of which the Lords of the Treasury were more jealous of the power invested in them than in the superannuation of civil servants of the Crown. He would be sorry if the House refused to make any provisions for the superannuation of officers who might hereafter enter the Colonial service, but it was competent for it to do so by the insertion of a clause in the Bill to that effect; and, as regarded the other obnoxious section—clause 8—with the view of meeting the objections of the hon. member for Wellington, the words "with the approval of the Legislative Council" might be inserted. When, the other day, a scheme for granting gratuities and superannuations to certain public officers in connection with the Survey Department—allowances calculated in accordance with the provisions of the Imperial Act, which was analogous to the Bill under consideration—no objection was

made by the House to that scheme. The decision of the Government in that matter was ratified by the Council, and it was consequent upon the manner in which that proposition was received and adopted by the House, that he had been induced to bring forward the present measure. All that he now asked was that hon. members would carefully consider the objects and provisions of the Bill before rejecting or mutilating it; that, actuated on the one hand by a laudable desire to act with fairness and justice towards those officers who had already served their adopted country faithfully and loyally, by recognizing their legitimate claims, the Council should, on the other hand, endeavor to avoid the imputation of casting a slur on future office holders, by rejecting that section of the Bill which contemplates that similar provisions be made for those who may hereafter enter the Public Service of the colony. With the consent of the House he would move that the commitment of the Bill should be taken after the other orders of the day had been disposed of.

The Bill was read a second time.

#### MASON, BIRD, AND COMPANY.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that a reserve of 100,000 acres of land on the Darling Range be made in favour of Messrs. Mason, Bird, and Company, for timber-cutting purposes, for a period of 14 years from the present date, in consideration of their constructing a tramway from the Darling Range to that portion of the Canning District known as "Mason's Landing," and subject to the following conditions:—

1. That the tramway be open to public traffic, on payment of reasonable charges, to be approved by the Government.
2. That licenses be taken out, in accordance with existing regulations, for all timber cut on unalienated Crown lands within the reserve, by Messrs. Mason, Bird, and Company.
3. That the Government retain the right to cut within the reserve such timber as may be required for public purposes, and to grant to private individuals monthly licenses to employ one pair of sawyers.
4. That all claim to the reserve be forfeited in the event of Messrs. Mason, Bird, and Company, ceasing business operations for a period of six months.

Question put and passed.

#### JURIES AMENDMENT BILL.

Second Reading.

The ATTORNEY GENERAL (Hon. R. J. Walcott), in moving that the Bill be now read a second time, briefly explained its provisions, and proposed that the Committee stage be taken after the debate on the Superannuation Bill.

After some observations from Mr. STEERE, this was agreed to.

The Bill was read a second time.

#### SUPERANNUATION BILL.

In Committee.

Clause 1—

Mr. STEERE moved that the first portion of the last section of clause 1 be omitted. It provided that the granting of superannuation allowances to persons who entered the Colonial service prior to the 5th August, 1829, should be computed, as to amount in accordance with the provisions of the Act 4 and 5. William IV., cap 24. At the last session the House had been informed that there was only one official in the colony to whom this provision applied, and his superannuation allowance had already been granted. The clause would, therefore, in this respect, be inoperative.

The COLONIAL SECRETARY (Hon. F. P. Barlee) assented, and the words were ordered to be struck out.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 2: Provision for computing amount of superannuation to persons holding professional and other special offices—

Mr. STEERE moved the omission of this clause.

Mr. SHENTON seconded the motion.

The COLONIAL SECRETARY (Hon. F. P. Barlee) resisted the expunging of the clause, which might materially interfere with the legitimate claims of some existing office holders. He had already stated that it was competent for the House to make any provisions it pleased with regard to public servants who may hereafter enter the Public Service, but he would not consent to the omission of the clause under discussion which affected the rights of existing officers. It would be better to abandon the Bill altogether than to submit it to a process of tinkering which was wholly inconsistent with its original design. If the hon. member persisted in pressing his motion, he would withdraw the Bill.

The ATTORNEY GENERAL (Hon. R. J. Walcott) hoped that the collective wisdom of the House would not consent to the omission of the clause. It affected the claims of professional men who, in entering the service of their adopted country, had abandoned all prospects of preferments and promotions in their various professions. The House was aware that the emoluments of professional gentlemen far, far exceeded the salaries paid to any Government official in the colony. From the salary of the Hon. the Colonial Secretary downwards there was no pay granted to any public servants which would induce any man to abandon a professional career, for the purpose of entering his country's service, unless some liberal provisions were made for ensuring him a retiring allowance that would, in some measure, compensate for his sacrificing the prospects of a lucrative profession, for the bare pittance of bread and cheese. If the clause was struck out, it would deter any professional men of ability from entering the colony's service. What man would abandon all prospects of advancement, with the emoluments and the honors attendant thereupon, if after devoting the greater portion of his life to the service of his country, that country should in dispensing with his services tell him he should only have what was his bare due, and nothing more? If the House desired to ensure for the colony, the services of able and competent professional men, it would pause before acquiescing in the motion of the hon. member for Wellington.

Mr. NEWMAN failed to understand why, after asserting that it was quite immaterial whether the Bill before the House was rejected or adopted, the Hon. the Colonial Secretary, and his colleague, the Hon. the Attorney General, should appeal to hon. members to allow the measure to pass. With regard to ensuring the services of professional men of ability, it would be a far better plan to pay them a handsome salary for the one or two years that their services might be required than to burden the colony by committing it to provide for a moderate salary for a long period, to be followed by a superannuation allowance for the remainder of their existence. He repudiated any intention of putting officers who may hereafter enter the Public Service upon a different footing to existing office holders. He would vote for the motion before the House.

Mr. STEERE contended that the tone of the Hon. the Colonial Secretary's remarks conveyed an impression that those who opposed the Bill objected to granting retiring public officers the allowance that their length of service entitled them to. It was not so. What he

objected to was, that civil servants upon retiring should receive more than they were entitled to. The Imperial Act had never been adopted in this colony, and he believed its provisions were inapplicable here. Hon. members were told that it was quite competent for them to make any provisions they pleased with regard to the allowances of future office holders, and yet the very clause under consideration affected those who may hereafter enter the Colonial service.

The COLONIAL SECRETARY (Hon. F. P. Barlee) thought there seemed to be a desire on the part of the hon. member opposite (Mr. Steere) to misconstrue what he had said. He had stated, and would reiterate his observation, that he did not think that the adoption or the rejection of the Bill before the House would at all interfere with the claims of existing office holders, and that it was competent for the Council to make any regulations it pleased as regarded those who might hereafter enter the Public Service of the colony. He would, however, inform the House that he was instructed to bring forward the Bill which, in its provisions should be analogous to the Imperial Act, and in the exercise of his duty he could not, and would not deviate from those instructions. He could not, therefore, assent to any motions that proposed to interfere with the claims of present office holders, and, as regarded those who might hereafter enter the Public Service of the colony if hon. members were not desirous that the provisions of the present Bill should apply to them, the better plan would be to introduce a clause to that effect. That, if he understood the hon. member for Fremantle, was what that hon. member wished to do. There was no objection on the part of the Government to the introduction of such a clause, if the House insisted on it; nor would he object to the insertion of the words "subject to the approval of the Legislative Council" in the eighth clause. Officers who hereafter entered the Colonial service would then do so with a full knowledge of what they might expect to receive, and it would be for them to consider whether it would be worth their while to do so, or not.

Mr. NEWMAN admitted his willingness to adopt the plan suggested by the Hon. the Colonial Secretary.

Amendment not agreed to.

Clause agreed to.

Clauses 3 to 7 agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 12 agreed to.

Clause 13: Governor in Executive Council to make rules for retiring allowances to officers transferred from or into colonial service—

Mr. STEERE asked the Colonial Secretary the purport of the clause.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that the purport of this clause, was to carry out the instructions contained in a despatch from the Secretary of State, which was laid on the table last session. Its object was to provide that officers transferred into or from Colonial service should carry with them what length of service they had passed in one colony into another, and that each colony should provide for the retiring allowance of such officers in accordance with the length of service during which the officer had been employed in such colonies.

Clause agreed to.

The COLONIAL SECRETARY (Hon. F. P. Barlee), with a view to meeting the views of the hon. member for Fremantle, moved that an additional clause be then inserted, to the effect that clauses 2 and 8 of the Bill shall not apply to persons entering the service of the colony after the date of the Superannuation Act coming into force.

The proposal was agreed to, and the additional clause was ordered to stand part of the Bill.

Bill reported, with amendments.

### JURIES AMENDMENT BILL.

In Committee.

Clauses 1 to 4 agreed to.

Clause 5—

The ATTORNEY GENERAL (Hon. R. J. Walcott) pointed out that the clause provided that every jury shall consist of 12 persons, coroners' juries excepted.

Mr. STEERE pointed out that in unimportant investigations before the Sheriff a less number than 12 jurymen would suffice.

Mr. NEWMAN believed that a Bill was in contemplation to provide for the empannelling of four jurors to assist Resident Magistrates in the disposal of cases that had reference to custom and practice rather than law, and requested to know if the present Bill would have any effect upon the other contemplated measure.

The COLONIAL SECRETARY (Hon. F. P. Barlee): Certainly not.

Mr. GULL suggested that the words "and writs of inquiry before the Sheriff" might be added to the clause.

The ATTORNEY GENERAL (Hon. R. J. Walcott) pointed out that cases of considerable importance, involving heavy damages, the escheating of land, and similar questions, were occasionally investigated before the Sheriff.

The COLONIAL SECRETARY (Hon. F. P. Barlee) thought there would be no objection to reducing the number of jurymen in the trial of issues in the court of general sessions at Albany and Geraldton, but contended that, in cases of inquiry before the Sheriff at Perth, where matters of importance are often investigated, and when little or no inconvenience would arise in securing the attendance of 12 jurors, that number might be retained in the clause.

Mr. GULL moved that the words "or to include Writs of Inquiry before the Sheriff, when the Jury shall consist of six persons," be added to the clause.

Amendment put, "that the words 'or to include Writs of Inquiry before the Sheriff, when the Jury shall consist of six persons,' be added to the clause," upon which a division was called for, the result being as follows:—

Ayes .....	7
Noes .....	7

Ayes.

Noes.

The Hon. R. J. Walcott  
Mr. Shenton  
Mr. Newman  
Mr. Moore  
Mr. Gull  
Mr. Logue  
Mr. Steere (Teller.)

The Speaker  
Mr. Brown  
Mr. Marmion  
The Hon. M. Fraser  
Mr. Russell  
Mr. Hassell  
The Hon. F. P. Barlee  
(Teller.)

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

Amendment thus passed.

Clause, as amended, agreed to.

Clause 6 agreed to.

Clause 7: Qualification and liability to serve as jurors—

An animated discussion ensued as to the extent of radius beyond which jurors should not be summoned to serve.

Mr. STEERE moved that the radius be restricted to 25 miles, instead of 30 miles, as provided in the Bill.

Mr. LOGUE, Mr. NEWMAN and Mr. GULL supported the motion, while the ATTORNEY GENERAL contended that it was no very great hardship for persons who were in the saddle from their cradle to the grave to ride 30 miles before breakfast. When he rode circuit, and weighed 16 stone, he thought nothing of a 30 miles' ride before breakfasting.

The greater the extent of the radius the more would be the number of persons liable to be summoned, which was a question of some importance to the jurors of Perth and Fremantle.

Mr. NEWMAN jocosely suggested, with the view of accommodating the Attorney General, whose feats of horsemanship hon. members could not fail to admire, that jurors capable of riding 30 miles before breakfast should be liable to be summoned when residing within that radius from the place of attendance, but that less accomplished horsemen should not be summonsed beyond a radius of 25 miles.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 8 agreed to.

Clause 9: Exemptions from serving on juries—

Mr. SHENTON proposed that members of the Legislative Council should be included in the list of persons exempted from serving on any jury.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 10 and 11 agreed to.

Clause 12—

Mr. STEERE pointed out that this clause compelled every magistrate within a district to attend a special session to be held on a certain specified day in every year, for the purpose of revising jurors' lists, and that according to clause 32 their non-attendance would render them liable to a penalty of £50. He contended that in many cases it would be very inconvenient, often impracticable, for every magistrate in a district to attend on any particular day.

Mr. BROWN concurred, and thought it unnecessary that all the magistrates of a district should be compelled to attend for such a simple matter as the revision of a list of jurors.

The ATTORNEY GENERAL (Hon. R. J. Walcott): Simple matter? The revision of jurors' lists, Sir, I contend, is not a very simple matter.

Mr. BROWN: I said, simple matter, Sir, it is true; but had I said it was not a simple matter I am sure the hon. and learned gentleman would have contradicted me just the same.

The ATTORNEY GENERAL (Hon. R. J. Walcott): There now! It may be a very simple matter for the boys who throw stones at the frog, but it is not a simple matter for the frog. It may be a matter of little importance to magistrates who are called upon to revise the

list, whether the names of all the jurors in the district are included in it or not; but it is a matter of considerable importance to jurors who are compelled to be in attendance oftener than they need otherwise be if the name of every person liable to serve on a jury was included in the list.

Mr. BROWN: The hon. and learned gentleman seems to think that there is not such a feeling as honor among the magistrates of this colony. The position of a justice of the peace is an honorable one, and I contend that it is not a proper spirit to attempt to introduce penalties into such Bills as these, for the purpose of compelling magistrates to do what their own sense of honor and duty would impel them to do.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that this was no new feature in the Bill. The other Ordinances at present in force contained clauses to the same effect. It has been the law of the land since 1858, and he saw no reason why it should be repealed now.

Mr. STEERE observed that when the Acts now in force were passed, they were not so carefully scrutinized as Bills were at present, and are likely to be in future. He would move that the words—"and they shall thereupon attend the said sessions," be struck out.

Amendment agreed to.

Mr. LOGUE then moved that the words, "and such jurors lists shall be inserted in the *Government Gazette*," be added to the clause.

The ATTORNEY GENERAL (Hon. R. J. Walcott): For what purpose?

Mr. LOGUE: For general information.

The ATTORNEY GENERAL (Hon. R. J. Walcott): General information? We do not want jurors' lists published for general information. It is already provided that the Sheriff or magistrates shall keep duplicates of such lists and exhibit the same gratuitously for the information of any person applying for that purpose at any reasonable time.

The COLONIAL SECRETARY (Hon. F. P. Barlee) pointed out that there were very cogent reasons why such lists should not be published for general information, and, in the interests of justice, he would ask the hon. member to withdraw his motion.

The amendment was thereupon withdrawn.

Clauses, as amended, agreed to.

Clauses 13 to 22 agreed to, with one or two unimportant verbal alterations.

Clause 23: Allowances for common jurors in the Civil Court—by whom payable, &c.—



Mr. STEERE contended that now was the time to raise the question of payment to jurors. The average annual sum paid to jurors in Perth, where most of the jury cases in the colony were tried, only amounted to £75 15s. 10d. and in Geraldton, the average for many years, was £49. Even in the present depressed financial condition of the colony the abolition of the payment of such small sums could not be justified on the ground of retrenchment. He would move an additional clause to the effect that jurors attending the Supreme Court of criminal sessions should receive payment for each day of their attendance.

The COLONIAL SECRETARY (Hon. F. P. Barlee) pointed out that there was no law at present in operation in the colony which legalized the payment of allowances to common jurors, but an arrangement was in existence under which it had of late been customary to grant certain allowances for refreshments and mileage. If it was the wish of the House that such an arrangement should continue in operation, he would offer no objection: but he thought that in the present state of the colony it would be imprudent to introduce a clause for the payment of all jurors in criminal cases. At no very distant date, he trusted when means of communication rendered travelling easier than at present, probably considerable alteration would be effected in the present mode of administering justice.

The SPEAKER maintained that it was very hard upon the poor man that he should be required to give his attendance at the sessions, and to serve his country, without payment, when he could not afford it. If the clause simply affected the rich, or those who could afford to attend without payment, he would say, by all means let them perform the duty which their country called upon them to discharge, without compensation or allowances. Not so, however, the poorer class of the population. Cases of great hardship had occurred under the existing arrangement and might again occur. He would move as an amendment upon the amendment of the hon. member for Wellington that all jurors attending the criminal sessions of the Supreme Court at Perth, and the costs of general sessions throughout the colony, should be entitled to receive compensation for their loss of time and expenses at and after the following rate:—for every day upon which a juror shall be in attendance the sum of five shillings *per diem*, and the sum of eightpence per mile of distance between the place of residence of such juror and the court where his attendance is demanded.

Mr. GULL cordially supported the amendment of the hon. member for Perth, (the Speaker).

The COLONIAL SECRETARY (Hon. F. P. Barlee) repudiated any intention of opposing the claims of the poor man advocated by the hon. member who had last spoken, but he would beg to call the attention of the House to the depressed financial state of the colony, and would ask whether, under existing circumstances, it was the wish of hon. members to increase rather than restrict public expenditure. The public funds would not meet any additional expenditure without increased taxation, and it was a question for the consideration of the House whether the colony should be taxed to benefit a few, or whether the public expenditure should be reduced so as to meet the revenue. He did not wish to resist the amendment before the House, but it was his duty, having some control over the finances of the colony, to call upon hon. members to pause before incurring any additional expenditure of the public funds.

Messrs. LOGUE, BROWN, and SHENTON supported the motion before the House, and Mr. MARMION suggested a compromise; but eventually the Speaker's amendment was affirmed.

Amendment agreed to.

Clause, as amended, agreed to.

The remaining clauses were agreed to, with some slight modifications.

Bill reported, with amendments.

The Council adjourned at 9.45 p.m.

## LEGISLATIVE COUNCIL,

*Monday, 31st July, 1871.*

Papers Tabled—33rd Victoria, No. 9, Amendment Bill: leave to introduce—Estimates: in committee—Messages from the Governor, Nos. 1 and 2—Estimates: in committee.

The SPEAKER took the Chair at 6 p.m.

PRAYERS.

The Minutes were read and confirmed.

## PAPERS TABLED.

The COLONIAL SECRETARY (Hon. F. P. Barlee) laid on the Table of the House a despatch from the Secretary of State for the Colonies to His Excellency Governor Weld, stating that Her Majesty had been pleased to confirm the Bill to amend the representation of the people and to alter the property qualification of members of the Legislative Council;