

to administer the Government for a short time, he would necessarily have to resign his seat. It would be inexpedient, he thought, in case the President of the Council, or the Speaker of that House, or any other gentleman being entrusted with the Administration for a short time, that his seat should become vacant; and this bill provided that under the circumstances he had named the seats should not be vacated. The second section of the bill provided that Ministers having been re-elected once on their taking office, need not go a second time to their constituents should they change their portfolios. What he meant was this: supposing, for instance, he changed his position of Attorney General for that of Commissioner of Crown Lands, it would not be necessary for him to be re-elected, having once been re-elected when he took the position of Attorney General. The bill also provided that no person could take the salary of two offices. With these few remarks he moved that the bill be read a second time.

Question—put and passed.

Bill read a second time.

POSTAGE STAMP ACT, 1889, AMENDMENT BILL.

THE ATTORNEY GENERAL (Hon. S. Burt) moved the second reading of an Act to amend the Postage Stamp Act. The bill, he said, was a short one, and one which need not evoke any great amount of discussion. In the original Act there was a definition of what was a fictitious stamp, which, although it was made applicable to the colonies did not apply to the United Kingdom, and it had been suggested by the Post Office authorities in London that the amendment contained in this bill, making the definition applicable to them, should be made. It was only a small matter, and he moved the second reading of the bill.

Question—put and passed.

Bill read a second time.

The House adjourned at 11:40 p.m.

Legislative Council,

Tuesday, 10th February, 1891.

Agreements with Holders of Special Timber Concessions—Crown Claims Ordinance Bill: second reading; adjourned debate—Apportionment Bill: second reading; adjourned debate—Protection to Parliamentary Printers Bill: second reading—Privileges Bill: second reading—Standing Rules and Orders—Adjournment.

THE PRESIDENT (Sir T. C. Campbell, Bart.) took the chair at 3 o'clock.

PRAYERS.

AGREEMENTS WITH HOLDERS OF SPECIAL TIMBER CONCESSIONS.

THE HON. J. W. HACKETT moved, That there be laid upon the Table of the House copies of the Agreements made with the holders of the Special Concessions to cut timber, enumerated in Schedule 8 of the Report of the Commissioner of Crown Lands for the year 1889. He said: I may state that I only require those relating to the concessions contained in Schedule 8 of the report of the Commissioner of Crown Lands for 1889. I do not require those relating to the ordinary timber licenses. I wish particularly to have those of the W. A. Timber Company at Lockville, the Rockingham Timber Company, Messrs. E. V. H. Keane, M. C. Davies, and H. J. Yelverton. It is not my intention to occupy the time of the House with any lengthy remarks on the present occasion, as I understand it is the intention of the Government not to oppose the motion. When these returns are laid upon the Table the time will arrive for extended comment, and of which I will avail myself. I might, however, just say now that we have handed over for a lengthy period, varying in each case, many thousands of acres of our best forest land. On examining them they are unequal in their incidence, but are, in some important particulars, equal. For the most part the largest advantages appear to have been given to persons outside the colony, and a minimum to those inside, and the provisions inserted in the conditions for the protection of the people of this colony have been but imperfectly observed, if not altogether unobserved. Hon. members will see when

we come to discuss the matter that these remarks are justified, but for the present I will content myself with moving the resolution standing in my name.

THE HON. R. E. BUSH seconded.

THE COLONIAL SECRETARY (Hon. G. Shenton): On behalf of the Government I may state that we are prepared to place the documents asked for on the Table of the House on Friday, if they can be prepared in time.

Question—put and passed.

CROWN CLAIMS ORDINANCE BILL—
ADJOURNED DEBATE.

THE COLONIAL SECRETARY (Hon. G. Shenton): Sir, I moved the adjournment of the debate in order that the Government might have an opportunity of looking into the provisions of the Bill. We have now considered them and feel that we cannot support the second reading. This Bill seeks to exempt the Government in cases of wrongs committed. The late Attorney General ruled that the King can do no wrong, but the present Government take a different view, and think that the Government should be as much liable for torts committed by them as any private person. If the servant of any private individual injured another, that individual would be liable to pay damages, and we consider the Government should be in the same position. At the last session of the Legislative Council a Bill limiting the amount the Government could be made liable for to £1,000 was thrown out, and we can hardly expect that a Bill relieving the Government from all liability whatever should be passed at the present time. The hon. member in introducing the Bill referred to the case of a P. & O. steamer. I think a large Company like that, if they had any right of action, would have gone on with it; but probably the Company was given the same advice as the Hon. Mr. Leake gave to Governor Ord. Leaving that out of the question, the Government do not consider they can give their support to the second reading of this Bill.

THE HON. J. W. HACKETT: I have to support my hon. friend the Colonial Secretary in the line he has taken with regard to this Bill. There can be no doubt the Hon. Mr. Leake has drawn attention to a defect in the law relating

to claims against the Crown. It is now certainly open to an enterprising Attorney to threaten the Crown with all sorts of actions, and that it has not been done in the past is in a large degree due to the fact that a knowledge of this power has been dormant. At the same time to take the step the Hon. Mr. Leake asks us to, and sweep away all possibility of a remedy, no matter how shocking the conduct of the Government may be, is too great to invite the Legislature to agree to. The hon. member drew attention to the law in England and in the Colonies, and he pointed out that our Ordinance was a facsimile of that of New South Wales; but he omitted to point out that the very same Act has been adopted by most of the other colonies. It is the law in New South Wales, Queensland, and Victoria. It is not the law in England; but we must remember that the Crown in England and the Crown here hold very different positions. A large number of concerns are carried on by the Crown in Western Australia which are considered out of the province of the Crown in the United Kingdom. Here the Crown runs the railways and the coaches; takes charge of the pilot service, and to a large extent makes the roads, and for any default through the laches of the colony's servants, must take the responsibility in the same way that Railway Companies do in England, or Trinity House does with the pilot service in England, or the Northern Lights in Scotland. Supposing, for instance, the Government put a drunken stoker and driver on board an engine, and they set about exercising it up and down the main line where there were three or four crossings, and ran over a man and killed or maimed him, is it to be said that the wife and family of that man have no remedy? In England under such circumstances they would not only get damages, but exemplary damages, from the Company that dared so to trifle with life and limb. If my hon. friend, Mr. Leake, had only gone so far as to limit the liability, or to guard, to some extent, the Crown against charges of a more or less pettifogging character by Attorneys who wished to harass the Government, then he would have had a better chance of support; but to

sweep away the protection of the subject altogether, is such a proposition I trust this House will not consent to.

THE HON. G. W. LEAKE: I simply brought this matter forward in order to place the legislation of this colony on the same footing as that of the Mother Country. It was never intended by the Legislature in New South Wales to give the subject a right of action against the Crown in cases of tort; and that that was so was recently proved in an action in which an owner of a ship, having received damage by the negligence of persons employed by the Crown, sued the Government, who disputed their liability on the ground that the subject had no right of action in the case of a tort. An appeal was made to the Privy Council, when it was held that the general words which had been imported into the statute had given the right of action. However, if the Government here do not see fit to protect the people of the colony it is their own business. I simply call their attention to the fact of there having been a slip in the drafting of the original bill. We must bear in mind that in this colony the Sheriff is a servant of the Crown. Every penny of fees he collects he pays into the Treasury, and in the selection of his servants he has no choice, and for any wrong done by them the Crown is liable. If a vessel in charge of a pilot touches the ground and damages her bottom, she has to be repaired at the expense of the Crown. It is by a mere accident that the subject has this right, and we must bear in mind the damages in these cases have to be assessed by juries. I have had some experience of juries in this colony, and we all know that they are not what you would call reasoning bodies. They do not like the Crown, and they will salt it if they can. They say to themselves, Here is a fine opportunity of going against the Crown and we will make it pay. We have had one or two instances of that sort here. I have endeavored to put the law in the position it was before this accident in the drafting occurred, but if the Government do not choose to protect the public, and are willing to throw their weight into the scale against them, it is their business and not mine. I would also call attention to the fact that damages in respect to railway matters are specially provided for by statute, and that right would not be

touched by this Bill, which deals with mere generalities.

Question, That the Bill be now read a second time, put and negatived.

APPORTIONMENT BILL—ADJOURNED DEBATE.

THE COLONIAL SECRETARY (Hon. G. Shenton): This, as explained by the Hon. Mr. Leake, is a Bill to assimilate the law here with that of the Mother Country, and I think we shall do well in passing it. There are several important provisions in it which it would be well to make law in this colony, and, therefore, on behalf of the Government I have much pleasure in supporting it.

THE HON. J. W. HACKETT: The Bill is simply the copy of an English Act which has been found to be of great value. It is not likely to be called into much use here at the present time, but no doubt as the colony develops, it will prove to be a serviceable measure.

Question, That the Bill be now read a second time, put and passed.

PROTECTION OF PARLIAMENTARY PRINTERS BILL.

THE COLONIAL SECRETARY (Hon. G. Shenton): I beg formally, sir, to move the second reading of this bill which has been sent to us from the Legislative Assembly. Hon. members have no doubt looked through it, and will have seen that its object is simply to protect the printers of Parliamentary papers.

THE HON. J. W. HACKETT: I have great pleasure in supporting this bill, which is a measure that exists in most of the other Colonies, as well as in England. In these other places such a measure has been found not only of great benefit, but also essential to the freedom of debate, as well as the publication of debate. I might remind the House that two years ago an Act was passed by the Legislature of this colony giving increased protection to newspapers, but, singularly enough, while it made the reports of public meetings and the proceedings of public bodies, if published *bonâ fide* and without malice, privileged, it did not protect them in the publication of Acts of Parliament or Parliamentary Papers. Before a similar Act was passed in Eng-

land a dispute arose between the House of Commons and the Courts of Law. The Courts had ordered the arrest of a Parliamentary printer, and the House of Commons, claiming superior authority, sent its Sergeant-at-Arms to release him, and hence the dispute. It was then felt that the proper course to pursue was to take the printer under the protection of Parliament, which was done by legislative enactment. I would ask the House to pass this bill, because at the present time proprietors of newspapers hold their lives and fortunes in their hand whenever they choose to publish an extract from a paper of either this, or the other Chamber.

Question, That the Bill be now read a second time, put and passed.

PRIVILEGES BILL.

THE COLONIAL SECRETARY (Hon. G. Shenton): I have to move the second reading of this bill, which has already been passed by the Lower House. It was found necessary to bring in the bill, as there was a doubt whether, under the old Standing Rules and Orders, power was given to Members of the Legislature to summon persons to give evidence before any Select Committee. The bill, in addition to clearing up this doubt, provides that any member misbehaving himself, or sending a challenge to fight another member, may be brought before the House and tried. It is a bill somewhat of a formal character, but still one necessary to enable the work of both Houses to be carried on. I beg to move the second reading.

THE HON. J. W. HACKETT: It is absolutely necessary that we should have some enactment of this kind, and I, therefore, support the second reading; but I hope before the bill is taken through Committee, the Standing Orders which have been prepared will be taken into consideration.

Question, That the Bill be now read a second time, put and passed.

STANDING RULES AND ORDERS.

THE HON. J. W. HACKETT, in moving "That the Standing Rules and Orders, prepared by the Standing Orders Committee of the Council, be adopted,"

said hon. members might consider them unduly voluminous; but the Committee had framed them on the best model they could get, having adhered as much as possible to the Standing Rules and Orders of the South Australian Legislative Council. In their labors the Committee had been greatly assisted by the extremely kind advice of a gentleman whose name stood high in connection with Legislative bodies—Mr. Blackmore. That gentleman had served in both Houses of the South Australian Legislature, and there was probably no one better qualified to give the advice the Committee needed in preparing these Standing Rules and Orders than that gentleman. The Committee had taken the South Australian Rules and Orders, and had embodied in them such of Mr. Blackmore's suggestions as they thought advisable. They had struck out the South Australian Rules relating to the election of President, as such were not necessary here at the present time. By Rule 17 any member absenting himself for more than a fortnight without leave was declared guilty of a contempt, and it was provided by the Constitution Act that if a member was absent more than a month without leave he ceased to hold his seat. Some Closure Rules were also provided, giving power to a majority to close a debate. These were the only matters he thought it necessary to call attention to, and he now moved the motion standing in his name.

THE HON. J. G. H. AMHERST said that although he would not move a formal vote of thanks to the Committee which had prepared these Rules and Orders, he thought he would be justified on behalf of the House in thanking them for the labor and care they had expended in drawing them up.

THE COLONIAL SECRETARY (Hon. G. Shenton) moved, That Rule 34 be struck out, and the following inserted in lieu thereof:—"The President only shall have the privilege of admitting strangers to within the Bar of the Council Chamber, and each member may issue one ticket of admission to without the Bar of the House."

THE HON. T. BURGESS seconded the amendment.

The amendment was agreed to, and the Standing Rules and Orders as amended were then adopted.

ADJOURNMENT.

The House at 4 p.m. adjourned until Friday, 13th February, at 3 o'clock.

Legislative Assembly,

Tuesday, 10th February, 1891.

Water-borer for use of Municipalities—Loan Bill: further considered in committee—Census Bill: in committee—Officials in Parliament Bill: in committee—Postage Stamp Act, 1889, Amendment Bill: in committee—Audit Bill: referred to select committee—Adjournment.

THE SPEAKER took the chair at 2:30 p.m.

PRAYERS.

WATER-BORER FOR USE OF MUNICIPALITIES.

MR. THROSSELL, in accordance with notice, asked the Director of Public Works,—whether the Government were in a position to place a Water-borer at the disposal of Municipalities desirous of using it, and if so, upon what conditions?

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied as follows:—The Government possess three Boring Machines, viz.—The Kaufman Borer (50 tons) capable of boring over 1,000 feet, the Tiffin Borer (20 tons) capable of boring over 500 feet, the small boring machine (1 ton) capable of boring over 200 feet. The Government will be pleased to loan any of these machines to Municipalities, on the condition that all conveyance charges, mechanics' wages, and expense of repairs, are defrayed by the borrowers. All three are now at Yilgarn. The Government will be very glad to confer with any Municipalities that may require any of these water-borers, with a view of meeting their wishes in the matter.

LOAN BILL: £1,336,000.

The House then went into committee for the further consideration of this bill.

SCHEDULE.

Item 2:

Railway from Eastern Railway to Yilgarn Goldfields, £324,000.

THE TREASURER (Hon. J. Forrest): Mr. Randell—I have very great pleasure in rising to give the House some information with reference to this railway. The railway from Perth to Bunbury and the extension from Boyanup to Mininnup and to Busselton, which was passed last evening without a division, is a railway, as I then said, that will tend, in the opinion of this Government and of those who supported it, to the agricultural development and settlement of the land along the route of that railway. The main object we had in view in placing that railway before members for their approval was to encourage the settlement of the land and the cultivation of the soil, our belief being that the result of the construction of that line will be that in a short time the face of the country it traverses will be completely changed, and that instead of being sparsely populated it will be the home of a considerable population, engaged in the cultivation of the land. The railway I have now the honor of bringing before the notice of the members of this committee, while it has to some extent the same object in view, has not that for its main object. The railway that we passed last night traverses a country with a plentiful rainfall, with an excellent climate, and with all those adjuncts which make up a pleasant life. The country through which the Yilgarn Railway will travel, after we go some 30 miles from York, reaches a country which has not a large rainfall, and which at the present time, under present circumstances, is not largely developed. We believe, however, that this railway is one that should be carried out at the same time as the other line, and go hand-in-hand (if I may use the expression) with the railway to the Southern Districts. The main object of this railway to Yilgarn—although I believe it will also result in bringing a large area of land under cultivation—is to encourage the development of the mineral resources of