Mr. CROWTHER said, without desiring in any way to offer any objection to the course proposed by the Attorney General, he would simply state that to his mind the House was getting into a very bad practice of putting off the business from day to day. They seemed to have foregone the morning sittings (Tuesdays and Thursdays) altogether, simply, it appeared to him, because hon. gentlemen living in town found it inconvenient to attend these morning sittings, forgetting the loss of time and inconvenience which all this delay entailed upon country members. His experience had been that, for getting through the formal business of the House, for getting rid of matters of dry technical detail, of which the majority of hon. members knew very little and cared less, these morning sittings were by far the best sittings for wiping these matters off the notice paper. He noticed there was nothing on the notice paper for either Tuesday or Thursday, and he thought the Government ought to take into consideration, so far as they could see their way clearly to do so, the desirability of bringing forward their measures as soon as they could, so that the work might be got through, instead of being put off, from one day to another.

The Hon. J. G. Lee STEERE said he sympathised very much with what had fallen from the hon. member for the Greenough, that some regard should be paid to the convenience of country members in these matters,—and that the work should not be postponed from day to day, without there being, in his opinion, any necessity for it. He did not know how much better able hon. members would be to judge of the effect of these amendments on Friday next than they were now. [Mr. Marmion: Unless they are printed.] He did not know how they were going to be printed, unless they were first moved, or notice given of them.

The ATTORNEY GENERAL (Hon. A. P. Hensman) said, so far as the fresh clauses or the amendments of the hon. member for the Murray and Williams were concerned, as he had already said they were only placed in his hands that evening, and he thought it was obvious that a member in charge of a bill ought to have some knowledge of the amendments proposed before going into them. A man must be differently constituted from the ordinary run of humanity if he could at a moment's glance take up a bill, almost every line of which required interpolation, and say "I assent to this" or "I agree with that"—a provision that might remain on the statute book for years, when they knew that the insertion of one wrong word might lead to litigation in the future. Therefore, so far as these amendments of the hon. member for the Murray and Williams were concerned, he was not prepared—nor did he think the House was prepared—to adopt them at once. With regard to his own amendments, he should be very happy to put them on the notice paper that evening, as he had them all ready. With regard to the date of adjournment, he should be quite content to make it Wednesday instead of Friday, if that would please the hon. member for the Swan.

This being agreed to, the order of the day for going into committee on the bill was discharged.

BILLS OF EXCHANGE BILL.

Read a third time and passed.

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

LEGISLATIVE COUNCIL,

Wednesday, 13th August, 1884.

Post Office Savings Bank Funds—Vote for Town Hall, Geraldton—Berthing of Steamers at the Port of Fremantle—Reorganisation of Works and Railways Department (Message No. 7)—Masters and Servants Bill: first reading—Newspapers (Registration and Libel) Bill: in committee—Message (No. 18): Progress of Negotiations with Sir Julius Vogel and Mr. Hordern re Land Grant Railway to Eucla—Deeds of Grant Bill: further considered in committee—Kimberley Sugar Lands: adjourned debate—Closure of Streets in York Bill: in committee—Wines, Beer, and Spirits Sale Act, 1880, Amendment Bill: in committee—Adjournment.

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

Prayers.

POST OFFICE SAVINGS BANK FUNDS.

In reply to Mr. S. H. PARKER,

THE COLONIAL SECRETARY (Hon. M. Fraser) said the total amount of all monies deposited in the Post Office Savings Bank on the 30th June last was £26,118 18s. 10d.; the total amount of such monies then invested by the Government on mortgage was £15,450, and the amount otherwise invested £10,668 18s. 10d. (which, however, was not unproductive, being placed at fixed deposit at the bank, for which he believed interest at the rate of four per cent. was allowed); and that the amount of interest paid or credited to depositors during the year 1883 was £880 11s. 9d., the interest received upon investments during the same period being £1,064 10s. 8d.

TOWN HALL FOR GERALDTON.

MR. CROWTHER, in accordance with notice, moved, "That an humble address "be presented to His Excellency the Gov- "ernor, praying that he will be pleased "to take such steps as may be necessary "for affording the Municipality of Gerald- "ton assistance proportionally to that "given to other Municipalities in the "Colony for the erection or purchase of a "Town Hall in Geraldton; such assist- "ance not to exceed £700." The hon. member said the motion spoke for itself, which would save him doing so. The only remark it would require on his part was to point out that the assistance asked was on somewhat dissimilar conditions to those upon which the same assistance was granted to the municipality of Fremantle, and more recently to the town of Albany. A town hall had already been built at Geraldton by a company, and they were now negotiating in England for a loan of money for the purchase of this building, which he need hardly say would prove a vast convenience to the place, not only as a town hall but also as a court of justice. When Mr. Justice Stone was down there the other day he stated publicly that he could not hold another sitting of the Supreme Court in the present courthouse, owing to the interruption caused by the street traffic and the ill-planned character of the building generally, which rendered it totally unfit for holding a Supreme Court in. He might add that he did not think the amount of assistance required—on the same basis as the assistance promised to Fremantle and Albany, namely, one-fifth of the cost of the building—would exceed what he had specified, namely, £700, as he believed, speaking from memory, the purchase money was to be £3,200.

THE COLONIAL SECRETARY (Hon. M. Fraser) said they had crossed the Rubicon the other night when it was determined to grant a subsidy towards the erection of town halls outside Fremantle. He thought it might be almost as well that hon. members interested in getting town halls built, throughout the length and breadth of the colony, should meet in solemn conclave and determine to what extent they were going to move that House for assistance for this purpose, so that the Government might know what its liabilities are likely to be. Probably, the hon. member for York would rise at an early date to ask for the same assistance for the capital of the Eastern Districts; for, as he said the other day, if they went outside Fremantle where were they going to draw the line? He could see that in future the resources of the Treasury chest would be very largely drawn upon for purposes connected with the building of town halls, and, as the House seemed to have made up its mind on the subject, he felt it would be useless on his part to offer any opposition to this address.

The motion was then put and passed.

BERTHING OF STEAMERS CALLING AT FREMANTLE.

THE HON. J. G. LEE STEERE, in accordance with notice, moved, "That an "humble address be presented to His Ex- "cellency the Governor, praying that he "will be pleased to take such steps as he "may deem necessary to carry into effect "the recommendation contained in the re- "port of the select committee recently ap- "pointed to consider and report upon "the correspondence laid upon the table, "with reference to the berthing of "steamers at the port of Fremantle." It might be remembered that a few days ago the hon. member for Toodyay moved

for the production of the correspondence that had passed between the Government and the agents of the direct line of steamers running between London and Fremantle on this subject, with the result that the correspondence was referred to a select committee. This correspondence showed that the commanders of these steamers were put to much inconvenience, because of the long distance from the shore at which they are compelled to anchor their vessels. When these complaints were communicated to the Government, the Admiralty surveyors were asked to give their opinions on the subject, and each of these officers—Captain Coghlan, Lieut. Dixon, and Lieut. Dockrell—severally fixed upon positions, all within one mile of the jetty, which in their opinion would be safe and convenient anchorages for steamers. The Harbor Master, however, appeared to have resented the opinions expressed by these experienced officers, and, acting upon the powers vested in him, insisted upon the steamers anchoring a distance of nearly two miles from the jetty, thereby causing a good deal of vexatious delay and inconvenience in discharging cargo, and thus bringing the port into disrepute. The select committee found upon inquiry that it was not unusual at other ports for the commanders of steam vessels to be permitted, on their own responsibility, to anchor their vessels in any position they considered safe and convenient for affording them quick despatch, and the committee saw no reason why the same latitude should not be allowed captains of steamers here. All that they thought necessary was that the commanders should give a written notice to the Harbor Master that they intended to take upon themselves the responsibility of berthing their steamers; and, so long as they did not interfere with the movements of other vessels, or obstruct the navigation of the harbor, he saw no objection to their being allowed this privilege. It might probably be necessary to alter the Act which now gave the Harbor Master the sole power of determining where a vessel shall be anchored; and, if it should be found necessary, the committee recommended that the Act in question should be at once amended.

Mr. SHENTON, in supporting the motion, said he might safely say, from his own knowledge, that the captain of every steamer that had arrived here from London had made the same complaint as to the position assigned to them. The "Glenochil," the first steamer of the service, was compelled to anchor two miles from the jetty, and, when the commander was asked, on leaving, whether he had any complaint to make against the port, he said this was the only grievance he had—the unnecessarily long distance he was berthed from shore, causing so much delay and inconvenience in discharging. The same complaint had been made by the captains of other steamers; and he saw no reason whatever why the same privilege as is given to commanders of steamers in other places should not be granted to them here. The Government in this matter had met the representatives of the steamers in every possible way. The agents suggested that the matter should be referred to the Admiralty surveyors, and His Excellency at once did so; and, as one of the representatives of the owners of these steamers, he wished to publicly acknowledge the readiness with which the Governor had met them, and also to thank the officers of the Admiralty survey for their good offices in the matter. The Harbor Master, however, when requested to do so by the agents and commanders of the steamers, refused to allow the vessels to anchor in the positions indicated by the Admiralty surveyors, falling back upon the statutory power vested in him under the harbor laws. He therefore thought it would be well for the House to accept the recommendation of the select committee that the law in question should be repealed or amended.

Mr. MARMION thought it desirable that some steps should be taken in this direction, and, if the law required to be altered, he thought it might be done this session. No doubt it would be somewhat unpleasant for the Harbor Master, who no doubt considered he was doing his duty; but, as a resident at Fremantle all his life, he (Mr. Marmion) thought it was unnecessary to compel these steamers to anchor so far out, especially in the summer time, and there would be no difficulty whatever in berthing them within a mile of the jetty.

The address was then agreed to.

REORGANISATION OF WORKS AND RAILWAYS DEPARTMENT (MESSAGE No. 7.)

Mr. S. H. PARKER moved,in accordance with notice, that the following humble address be presented to His Excellency the Governor:—"The Legislative Council has the honor to submit "to His Excellency the Governor the "Report of a Select Committee of the "House appointed to consider His Excellency's Message No. 7; and begs respectfully to recommend the suggestions of "the Committee with respect to the future "organisation of the Works and Railways "Departments to the favorable consideration of the Governor." The hon. member said it would be in the recollection of hon. members that His Excellency in his message had made several suggestions as to the reorganisation of these two branches of the public service, but, while mentioning his own opinion on the subject, the Governor at the same time desired the House to favor him with their views on the question. The select committee had given the matter very careful consideration, and they considered it desirable that the two departments should, for economical reasons, continue united under the management of one officer. This officer, they proposed, should be styled the Director of Works and Engineer-in-Chief. The committee were aware that in order to empower this officer to carry out certain statutory powers, and to give him a seat in the House, it would be necessary he should be also styled Commissioner of Railways; but the committee had made no suggestions as to this point, leaving the matter to the discretion of His Excellency, either to amend the law in this respect or to confer upon the officer in question the additional title of Commissioner of Railways. The committee also thought that the arrangement sketched out in the 2nd paragraph of His Excellency's message was one that would commend itself to hon. members generally. His Excellency said: "The first point which the Council will doubtless consider is, whether the two departments named are to continue under the management of one officer? If the economical reasons which have rendered this combination desirable cannot yet be set aside, the best course would seem to be to raise the salary of the conjoined departments from £600 (the present amount) to £800 or £900 a year, and to appoint, from England, for a term of three or five years, at the discretion of the Government, an active, able man, well-experienced, not only in railway engineering, but also in traffic management, and further qualified to give an effective general oversight to the public works of the colony. As regards this latter portion of his duties, the new Director of Works would of course be responsible for the proper execution of all public works; but, if the two Departments are still to be administered together, it would be well, the Governor thinks, that the officer appointed should as far as possible be relieved of the details of the ordinary public works, and be assisted in this department by a thoroughly trained Superintendent of Works, who might also be procured from England, at a salary of £500 a year, being an increase of £100 on the present payment." The select committee quite agreed with the views of His Excellency on this subject, and, as regards the Superintendent of Works, they recommended that this officer should be a duly qualified architect. In view of the fact that the colony was about to borrow a sum of half a million for public works of some magnitude, and of the probability of our railways being extended, it seemed to the committee that the head of the department should be relieved not only of the details of the Works Department but also of the details of the Railway Department, and devote himself to the general supervision of the two branches, with two subordinates under him to look after details. One of these, the Superintendent of Works, would be responsible for the details of the Works Department, and the other, whom it was proposed to call the Manager and Maintenance Engineer of Railways, would be entrusted with the details connected with the traffic management and proper maintenance of all opened lines. The committee suggested that the salary of each of these two subordinate officers should be £550 a year, and that the salary of the Engineer-in-Chief should not exceed £900 a year, making a total of £2000 per annum. The present salary of the Director of Public Works was £600, and of the Superintendent £400,—just one-half

what the new arrangement would entail. But if the suggestions of the committee were entertained by the House and carried out by the Government, there would out of this £2000 be a sum of £725 chargeable to loan account, being one half of the salaries of the Director of Works and of the Superintendent, thus reducing the charge of the general revenue to £1275, or only £275 in excess of the salaries now paid. When it was borne in mind that these two officers would have charge of works that would have to be paid for out of loan, the committee thought, with the Governor, that a moiety of their salaries might legitimately be defrayed from loan account. As these two officers (the Engineer-in-Chief and the Superintendent) would be appointed for a term of three or five years, at the discretion of the Government, the committee recommended that the third officer, the Maintenance Engineer, should only be appointed for the same term. He might state, in conclusion, that the hon. member for the Vasse, who was one of the select committee on this subject, had forwarded to him a rider, which the hon. member wished to have attached to the committee's report; but, unfortunately, when he received the rider the report had been printed. What the hon. member for the Vasse wished particularly to state was that if the House adopted the suggestions of the select committee as to the salaries of these officers, the salary of the Director of Works, the fourth Executive officer of the Government, would be as high as the salary of the Colonial Secretary, the chief Executive officer of the Government.

Mr. SHENTON said the matter had received the careful consideration of the select committee, and they were all of opinion that the time had arrived when the House should vote a larger salary to enable the Government to get a first class man to take charge of the Works and Railways Department, in view of the large amount of expenditure contemplated upon public works out of the proposed new loan, and of the important projects before the House for the construction of railways on the land grant system. He thought it was very desirable they should have an officer with a knowledge of architecture, so as to secure a better style of buildings in the future than we had in the past. He also considered it highly desirable we should have a thoroughly qualified traffic manager. The necessity for such an appointment had been felt since the Eastern Railway was opened. He thought the public had a right to expect to get as many facilities as possible out of their railways. It was utterly impossible for the head of the department to look after all these details, and he hoped that one of the results of these new appointments would be that the Council would see the necessity of transferring the traffic branch and the account branch to head quarters. He had always maintained that it was impossible for the traffic management to be properly conducted and the accounts properly kept when the officers were so far away from head quarters. He thought all the officers, if possible, ought to be under the one roof.

The motion was then put and passed.

MASTERS AND SERVANTS BILL.

The ATTORNEY GENERAL (Hon. A. P. Hensman) moved the first reading of a Bill to amend the laws relating to Masters and Servants.

Motion agreed to.

Bill read a first time.

NEWSPAPER (REGISTRATION AND LIBEL) BILL.

On the order of the day for going into committee on this bill,

Sir T. COCKBURN-CAMPBELL said he moved, when the bill was last before the House, that its committal be postponed, in order that hon. members might have an opportunity of looking into the measure, which, he thought, was of rather more importance than perhaps at first sight appeared. Hon. members had probably looked into the bill since then—he had done so himself, and personally he had come to the conclusion that, although certain portions of the bill were desirable, there were other portions which he thought it would be undesirable for us to adopt in this colony. Those portions which were desirable seemed to him to be the second clause, relating to the privileged character of newspaper reports, and the subsequent provisions with regard to the registration of newspapers. But clauses 3, 4, 5, and

6, which gave a discretionary power in libel cases to Attorneys General and Magistrates which they did not possess at present, were, he thought, highly undesirable to admit. It must be recollected that our circumstances are entirely different from those existing in the mother country, where this bill was introduced and passed, in 1881, and that whereas no personal feeling could arise in large communities, personal feeling must enter very largely into the action of officials, in regard to such matters, in a small community like this. He hoped it might be understood that he was not referring to any individual; but they all knew that such personal considerations could not be avoided in connection with such questions as libel cases, in a community like ours. At present there was no discretionary power in these cases given either to the Attorney General or to the Magistrates; the cases went in due course to the Supreme Court, and, though he did not believe himself that even the Supreme Court, in a small community like this, could be totally free from bias and prejudice in these matters, still he did think it was desirable that the Supreme Court alone should be empowered to deal with such cases. He did not think it was necessary he should enter into the reasons particularly why these extra powers should not be given; he thought all hon. members could tell for themselves what those reasons were, and perhaps it would be better not to dwell upon them more in detail. He failed to see what necessity there was for the introduction of this bill. He did not think they had been given any reason in particular, except that it would swell the number of Acts passed this session. There might, as he had already said, be certain clauses which it may be desirable to adopt, but he did not think they were absolutely necessary, and the others were to his mind positively objectionable; and, unless the Attorney General was willing to strike out those clauses, he would move that the House should go into committee on the bill that day six months, and,—to put himself in order,—he would move so now, in order that debate might take place upon it.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) thought the proper course for the hon. baronet to have taken would have been to have made this motion on the second reading of the bill, and not now, when they were about to go into committee on it. So far as he was able to judge, the bill appeared to him a very proper bill indeed. It would save persons from being vexatiously prosecuted, and it tended rather, he thought, to protect the press than in any way to harass newspaper proprietors. They knew how very easy it was under the present law to very much interfere with the freedom of the press. He believed there was no reason why at any time a summons could not be taken out against the proprietor of a newspaper, who might be brought before a magistrate, but the magistrate would have no power to deal with the case, and upon a *prima facie* case being shown, the proprietor of the paper would have to be committed for trial and be subjected to a criminal prosecution, although perhaps he would have been quite able, if he had an opportunity of doing so, to prove that the statements he had published were quite true and justifiable. All this would be avoided if the present bill became law. He was not prepared to speak at any length with reference to the bill, but it certainly appeared to him a very good one. It protected the press, and, he thought, tended to make the plea of justification a very easy one to prove, instead of resorting to the roundabout tedious process which had now to be resorted to.

MR. MARMION said he felt a diffidence even in asking a question upon a bill of this kind, with the scope of which he was not at all conversant. But he had noticed one or two things in connection with it, which had struck his attention as being somewhat peculiar. One was, that in all criminal prosecutions against a newspaper the fiat of the Attorney General had first to be obtained, which struck him as a peculiar provision, for this reason: the Attorney General in this colony—of course the hon. and learned gentleman opposite would understand there was nothing personal intended in his remarks—was permitted to undertake private practice, and might himself be retained in many libel cases. Were the Attorney General prevented from practising privately, this provision would seem a very proper one; but, where he was allowed private practice, and where he

might possibly be himself engaged in a libel case, on one side or the other, it did seem rather strange that he should also be the first person to decide whether that case should go into court or no. If that was the meaning and intention of the clause, he thought the present bill was not a move in the right direction. He was not acquainted with the existing law of libel, and possibly if he were to say any more with reference to the bill he might be led into pitfalls which he was anxious to avoid. But he might say he agreed to a very great extent with the hon. member for Plantagenet, that there had been no great reason for introducing the bill. He was not aware that, either on the part of newspaper proprietors or of the public, there had been any desire expressed in favor of such a measure, nor had the Government, he thought, showed any necessity for it. Possibly, however, after hearing what the Attorney General might have to say, his opinion as to the bill might be altered.

Mr. S. H. PARKER said that when he first read this bill it struck him that it was giving a great deal of power into the hands of the Attorney General, but, having considered it carefully, the conclusion he had arrived at was that there was nothing objectionable about the bill. Bearing in mind that it was almost similar to an Act already in force in England, bearing in mind also that the Attorney General in England was allowed private practice, and could be retained by any newspaper to defend it in a libel case, and bearing in mind further that the Attorney General in England belonged to a political party, and that the newspaper proceeded against might be a political organ,—bearing all this in mind, it appeared to him this bill would not be giving any greater power to the Attorney General of this colony than that appertaining to the position of the Attorney General of England. Nor was it at all likely, to his mind, that the Attorney General of this colony would be influenced in these matters, in a greater measure than the Attorney General of England; on the contrary, bearing in mind, as he had already said, that the Attorney General at home belonged to a party, and had his own side in politics, he thought it was rather more probable that he would be influenced in a newspaper libel case than any learned gentleman occupying that position in this colony would be likely to be. This Act was not passed in England without a great deal of consideration being given to it, and the 4th clause at any rate—that which provided that no criminal prosecution shall be commenced for libel without the fiat of the Attorney General—evoked a great deal of discussion. Hon. members were perhaps not aware that until this Act was passed in England, anyone might lay an information against the proprietor, publisher, or editor of a newspaper, and the person so proceeded against criminally could not go into the evidence at all before the magistrate, as a man could in other cases of criminal prosecutions. The defendant could not show whether the libel complained of was true, or for the public benefit, or that it was not published maliciously. As soon as the publication of the libel was proved, the magistrate was bound to commit the defendant for trial, and the present Act was brought in to protect newspaper proprietors and newspaper people generally, so that the evidence might be gone into, before the magistrate, as in other criminal prosecutions, and that if the magistrate did not think a *prima facie* case had been made out, he might dismiss the charge and set the defendant free. To his mind this appeared a most right and proper law. He could not see why a person charged criminally with having committed a libel should not have the same opportunity of defending himself before a magistrate as a person charged with having committed a larceny, and why he should be put to the ignominy of being committed for trial upon a criminal charge when possibly there was no charge that could be sustained before a higher court, or on which any jury would convict him. He thought the 4th clause was undoubtedly one that ought to be adopted by that House. As regards the 5th clause, providing for summary conviction before a magistrate, he saw no objection to it. It would not be competent for a magistrate, under this clause, to summarily adjudicate upon a case without the consent of the defendant himself; and, surely, if the defendant himself, the party chiefly interested, consented to the magistrate adjudicating, no

one else need make any objection. Therefore, looking at the bill on the whole, and bearing in mind that it was already the law in England, and that as far as practicable we should attempt to assimilate our laws with those of the mother country, except in cases where we found that the laws of our neighbor colonies had improved upon them, he felt bound himself to support the bill.

SIR T. COCKBURN-CAMPBELL said he did not wish to press his amendment, if it was against the feeling of the House or against the sense of the House; but he wished to warn hon. members of what he believed would be the result, if cases of libel were brought after this bill became law. The result would be that magisterial benches would be packed with friends and sympathizers of the various parties concerned. Of that he felt perfectly certain. [THE SURVEYOR GENERAL: No, no.] They had seen it already, and probably should see it again. The 5th clause, also, seemed to him to give extra facilities for bringing such cases, and he failed to see how it could operate in the interests of newspapers. He thought, however, the interests of individuals should be considered as well as the interests of newspapers, and that neither of these interests would be properly protected under this bill, the proposal to give extra powers to magistrates, who might be swayed by personal feeling, bias, or prejudice, being most undesirable.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The hon. baronet has taken a course which I think is very inconvenient and somewhat unusual. Instead of boldly coming forward and opposing this bill on its second reading,—

SIR T. COCKBURN-CAMPBELL: If the hon. and learned gentleman looks at *May* he will see that a bill may be opposed at any stage.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): I am aware that a bill may be opposed at any stage, but I believe the practice in England, and I believe the practice here is that if you have any objection to a bill, you should state that objection on its second reading. This bill passed through its second reading, and the hon. baronet did not take the objection he has now taken—an objection which, on the first sign of opposition from the other side of the House, the hon. baronet seemed to withdraw from. The hon. member stated that the bill is altogether unnecessary. If that is so, why had he not the courage of his opinions to maintain the position that he took up in his first speech? If the bill is altogether unnecessary, I should have thought he would have persisted in his objection. But I venture to submit that this bill is not altogether unnecessary. I venture to submit that it is a most useful measure, and a further step in the progress we are making in free institutions. The press in the past, as I had occasion to suggest on a former occasion, has been subjected to severe restrictions, and it is only in recent times that we have learned to value the freedom of the press; and I venture to think that no country can be considered to have arrived at a proper state of civilisation and freedom, unless the press also is free and unfettered to express its opinions on all public matters. Let me just shortly speak of the clauses of the bill he referred to. Section 2 has been referred to,—but I understand the hon. baronet himself does not object to that. Well, I should think not, for a more reasonable provision one can hardly imagine. It is this: that whereas under the present law, if a reporter who attended a public meeting should happen to publish the excited and perhaps defamatory words of a public speaker, carried away by his feelings for the moment—words which the speaker himself might regret next morning—the proprietors of the paper in which these defamatory words were reported might be taken before the court, and proceeded against, if not criminally then civilly, and perhaps be fined or imprisoned. This second section provides that if these reports are made at a public meeting, lawfully convened for a lawful purpose, and if the report is a fair report and published without malice, the publication of the report shall be privileged, and if an explanation is required and offered, or an apology published, there is an end of the matter. What can be more reasonable? The hon. baronet says, without wishing to go into personal considerations, that he objects to clause 3. That clause says that no criminal prosecution

shall be commenced against any proprietor, publisher, or editor of a newspaper for any libel published therein, without the written fiat of the Attorney General being first obtained. As pointed out by the hon. member for Perth, in England the Attorney General has the same functions; but in England the Attorney General has not the power that he has here, and which owing to the circumstances of the colony he is obliged to have—the power to find true bills. The Attorney General in this colony already has the power, if a prosecutor has not made out a case, to forbid it from going before a petty jury. Let me tell the hon. baronet that this is no pleasant duty. I do not know what other Attorney Generals may have felt in this matter, but since I have been in the colony I have had to interpose on several occasions and stop proceedings, and prevent parties being put to the expense, and annoyance, and disgrace of prosecutions before the Supreme Court, when in the exercise of my judgment and to the best of my humble ability I thought they ought not to be sent there. That was no pleasant duty. It was a duty which I should have been very glad to have cast upon somebody else. The exercise of such a power can do no one exercising it any good, while, on the other hand, it may at any rate place the Attorney General in a position of opposition to the magistrates of the colony. But it is his duty. It is a duty in the discharge of which—I speak without personal considerations, and I trust previous Attorney Generals would view the matter in the same light—it is a duty in the discharge of which I am willing to leave my actions to the judgment of the public and my own conscience. The Attorney General already having this power to stop prosecutions for criminal libel going to the Supreme Court, what extra power are you giving him if you allow him to say there is no case to take the newspaper before a magistrate? And, observe, this only applies to criminal prosecutions, the Attorney General having no power at all to interfere with civil actions. It is only shifting the duty of the Attorney General forward in point of time, and enabling him to interpose at an earlier stage of the proceedings. Instead of letting him decide whether a case shall go before the Supreme Court and a jury, you enable him to stop a case from going before a magistrate, and thereby save the newspaper considerable expense and possibly trouble. So far as personal considerations are concerned, this is a duty—I am speaking now as the holder of the office—which I should be glad to get rid of, but I cannot help saying that in the interests of those likely to be prosecuted, it appears to me a right provision. We come now to the next clauses—the 4th, 5th, and 6th, and I think from an observation I have seen made public, that these clauses may have been misunderstood. The clauses only refer to criminal charges. As hon. members are aware there are two ways of dealing with a libel: you can indict a person criminally or you may bring a civil action against him for damages. These clauses do not in any way touch an action for damages, but merely where a party chooses to start a criminal prosecution. They are entirely in favor of the press, and I think justly and rightly in favor of the press, and for this reason: until this Act was passed in England—and it is the law now here—however frivolous a charge may have been, the magistrate was bound to send it to trial, and what was the consequence? As soon as it came before a jury, or before it went to the jury, the case was dismissed. Although the magistrate may have known it would be out of court as soon as it went in, yet still he was obliged to commit. Was that a reasonable thing? In the same way here, if a magistrate, when this bill passed, should be of opinion there was no case to go before a jury, he would dismiss the case there and then; or if he thought a *prima facie* case was made out, but that the charge was of so trivial a character that the offence would be adequately punished with a fine, he was empowered to do so, up to £50. I was surprised to hear the attack made upon the magistrates of this country by the hon. baronet,—that a packed bench will be brought together in order to adjudicate upon these libel cases. I was sorry to hear such a remark made, and I for one hardly believe what has been said of the bench and of the justices of this colony. Whether the magistrates of the colony are of that character or no,

whether, as alleged, they would act from personal motives or not, I say there they are, part and parcel of the tribunals of the country; and, if they are fit to adjudicate upon other charges, and even upon capital charges in the first instance, and to commit for trial or dismiss, surely they are also fit to adjudicate in cases of libel, and to dismiss such charges if they think fit. Surely also, if the parties choose to submit themselves to their jurisdiction—and they cannot deal with a case otherwise—they may be entrusted with the power to inflict a fine up to £50. Surely it is not for any one else to say this is hardship if the person chiefly concerned, the defendant himself, chooses to submit himself to this summary jurisdiction. It seems to me these are most reasonable provisions. I think I have now dealt with the objections referred to by the hon. baronet, and if I have spoken with any degree of warmth it is because on a subject of this kind one is apt to feel rather warmly. I am sorry to hear objections of this kind brought against a bill, as I venture to think, of this enlightened and liberal nature, and I hope the House will not only proceed with it, but will adopt every clause of it, for I think it will be found that it contains no clause which is not useful, bearing in mind the words of Count Cavour, that one of the greatest blessings any country can have is a free press in a free State.

The amendment being negatived, the House went into committee on the bill.

IN COMMITTEE:

Clauses 1 to 6:

Agreed to, without comment.

Clause 7.—"Where, in the opinion of "the Chief Justice of the Supreme Court, "inconvenience would arise or be caused "in any case from the registry of the "names of all the proprietors of the "newspaper (either owing to minority, "coverture, absence from the colony, "minute subdivision of shares, or other "special circumstances), it shall be law-"ful for the said Chief Justice to author-"ise the registration of such newspaper "in the name or names of some one or "more responsible 'representative pro-"prietors:'"

MR. S. H. PARKER pointed out that as there were now two Judges of the Supreme Court it might be advisable to provide for the other Judge acting under this clause. He would therefore move, as an amendment, that the words "or of a Judge" be inserted after the words Chief Justice," both in the 2nd and 10th lines. The Chief Justice might be administering the Government, or be absent from the colony, and it would be most inconvenient for parties who desired to register themselves as the proprietors of a newspaper to have to wait until the Chief Justice resumed his judicial duties.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he saw no objection to the amendment beyond this—whether it might not give rise to some possible clashing between the opinion of the Chief Justice and the opinion of the Judge. However, if the hon. member wished particularly to have the alteration, he saw no objection to it, except that which he had just stated.

MR. S. H. PARKER presumed that these applications to be registered would be heard in chambers, and, as each Judge sat in his own chambers, their opinions were not likely to clash. If the application were refused by one Judge, it was not probable that the other Judge would grant it; whereas, if these words were omitted, it might give rise to great inconvenience.

The amendment was put and passed, and the clause agreed to.

Clauses 8 to 15:

Agreed to without discussion.

Clause 16.—"The expression a 'court "of summary jurisdiction,' as used in this "Act, means any one or more Justices of "the Peace in petty sessions; and all fines "and penalties under this Act may be "recovered before a court of summary "jurisdiction according to the provisions "of the Acts in force for the time being "with respect to summary convictions "and orders, but subject to the provisions "in this Act aforesaid; and all summary "orders under this Act may be enforced "according to the provisions of the said "Acts:"

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he proposed, in order to give the court fuller jurisdiction to deal summarily and to inflict penalties under this Act, to make it two justices instead of one. He therefore had to move that the word "one," in

the 3rd line, be struck out, and the following words inserted in lieu thereof: "Resident or Police Magistrate sitting together with one or more Justices of the Peace, or any two."

The amendment was accepted, and the clause, as altered, agreed to.

The remaining clauses were agreed to, without discussion.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the Act 7th William IV, repealed by clause 18 of the present bill, was a perfect Chinese puzzle, and the only provision of it which it was at all necessary to retain was that which related to the filing of a signed copy of each newspaper by the printer. In order to meet this requirement, he had to move the following new clause:—"The printer "of every newspaper shall print upon "each of such papers printed by him his "name and usual place of abode or busi- "ness, and shall also carefully preserve "and keep, for the space of 6 months at "least after the printing thereof, one "copy (at least) of every such paper, on "which shall be written or printed the "name and place of abode of the person "or persons by whom he shall have been "employed to print the same, and he "shall produce and show the same to any "Justice of the Peace who within the "said space of time shall require to see "the same; and every person neglecting "or omitting to comply with any of the "provisions aforesaid shall, on conviction "thereof before a court of summary "jurisdiction, be liable to a penalty for "every such offence not exceeding Ten "pounds."

The clause was agreed to, without comment.

Schedules agreed to.

Preamble and title agreed to.

MESSAGE (No. 18): PROGRESS OF NEGOTIATIONS WITH SIR JULIUS VOGEL AND MR. HORDERN *re* LAND GRANT RAILWAY TO EUCLA.

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

"The Governor has the honor to "transmit, herewith, for the considera- "tion of the Honorable the Legislative "Council, a despatch (No. 59, dated 2nd "July, 1884), which he has received from "the Right Honorable the Secretary of "State for the Colonies, enclosing papers "showing the progress of the negotia- "tions with Sir Julius Vogel and Mr. "Hordern in the matter of the scheme "for a Land Grant Railway from Bever- "ley to Eucla, considered by the Council "last Session."

"Government House, Perth, 13th Au- "gust, 1884."

DEEDS OF GRANT BILL.

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

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said the discussion in committee was adjourned the other day because he was desirous of having a clause introduced which would enable him to recall deeds of grant containing a misdescription of land or of the boundaries of land, when such deeds had been issued before the Transfer of Land Act came into operation. Under that Act the Commissioner of Titles had power to call upon the holder of a deed containing an erroneous description to give it up, to be rectified; but no such power was vested in the Crown Lands Office with reference to deeds issued in the earlier days of the colony. The Attorney General had kindly drafted two new clauses to meet this defect, which he would ask to be inserted on the minutes, as he was not then prepared to discuss the provisions of the new clauses. He would therefore move that progress be reported, and leave given to sit again another day.

Leave given.

Progress reported.

KIMBERLEY SUGAR LANDS: RESERVATION FROM SALE.

ADJOURNED DEBATE.

On the order of the day for the further resumption of the debate upon the motion in favor of reserving from sale a certain area of land in the Kimberley District, until a comparison might be made between these lands and the sugar lands of Queensland,

MR. RANDELL, who had moved the adjournment of the debate, said he did so thinking from the appearance of the House that the subject was not likely then to receive the consideration which its importance deserved, and also that the

hon. member who had submitted an amendment would agree to alter the terms of it, so as to make it more acceptable to hon. members generally. His sympathies were with the object in view, but he thought the area which it was proposed to reserve from sale was too large and too indefinite. He also thought some specified time ought to be stated during which these lands would be reserved from sale, and, in the next place, that those who were moving in the matter should indicate by what means it was proposed to institute a comparison between our Kimberley lands and the Queensland sugar lands.

MR. GRANT said he had simply brought forward the motion in the interests of the colony, seeing what had been done in Queensland, and to prevent a repetition of the same thing here.

MR. SPEAKER said the hon. member (Mr. Grant) had already spoken on the subject, in the course of the previous debate. The hon. member was therefore out of order in addressing the House again.

A division was then called for, when the motion was rejected, the numbers being:—

Ayes	4
Noes	17
Majority against ...	13

AYES.	NOES.
Mr. Grant	Hon. M. Fraser
Mr. Loton	Hon. A. P. Hensman
Mr. McRae	Hon. J. Forrest
Mr. Crowther (*Teller*).	Mr. Mason
	Mr. Brown
	Mr. Burt
	Mr. Davis
	Mr. Glyde
	Mr. Hamersley
	Mr. Higham
	Mr. Marmion
	Mr. S. S. Parker
	Mr. S. H. Parker
	Mr. Randell
	Mr. Shenton
	Mr. Venn
	Hon. J. G. Lee Steere (*Teller*).

The motion was therefore negatived.

CLOSURE OF STREETS IN YORK BILL.

This bill passed through committee *sub silentio*.

WINES, BEER, AND SPIRIT SALE ACT, 1880, AMENDMENT BILL.

The House then went into committee on this bill.

Clause 1.—Incorporation of bill with principal Act:

Agreed to.

Clauses 2, 3, 4, 5, and 6.—Dealing with the compulsory transfer of a license from an outgoing tenant to an incoming tenant, in the event of the former's lease or tenancy expiring during the currency of his license.

(These clauses were all struck out, in order to introduce fresh clauses prepared by Mr. Burt, empowering the Magistrate of a district to deal with these compulsory transfers, pending the holding of the quarterly licensing meeting, and thereby avoiding delay.)

Clause 7.—Temporary licenses to be granted, upon application, without previous notice, for eating, boarding, or lodging houses; such licenses to remain in force until the next quarterly licensing meeting:

Agreed to.

Clause 8.—"If any licensed person "shall by himself, or his agent, or servant, sell or dispose of, or offer, or "attempt to sell, or dispose of, or shall "have upon his licensed house or premises, "any liquor which is adulterated, or "which is mixed with, or contains any "tobacco, vitriol, opium, coculus indicus, "grains of paradise, quassia, alum, salt "of tartar, creosote, or any extract or "preparation of any of the aforesaid "substances, or any matter or ingredient "which is injurious to health, he or she "shall on conviction thereof before any "Resident or Police Magistrate of the "district where the said licensed house or "premises are situate, or before any two "or more Justices of the Peace in Petty "Sessions, be liable to pay a penalty not "exceeding Fifty pounds, together with "a fine of pounds in respect of the "analysis of such liquor; which latter "sum shall be paid to the sole use of "Her Majesty, her heirs and successors, "for the public use of the colony and the "Government thereof; and the said "Magistrate or Justices may also in his "or their discretion, by order under his "or their hands, declare the license of "such person to be forfeited, and the "same shall thereupon become void:"

MR. CROWTHER asked the Attorney General if he had thought over what he had said the other day, with reference to the hardship and injustice which this

clause might work in the case of publicans who might innocently have in their possession or offer for sale liquors which, upon an analysis, might prove to be adulterated, but with the adulteration of which they had had nothing whatever to do. It appeared to him that the only real protection that could be afforded the retailers of liquor, while at the same time enabling an offence to be traced home to a really guilty man, was to have all liquors analysed at the Customs, before they are delivered out of bond.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) thought that would be going rather beyond the scope of the bill. He would again point out that justices had great discretion, as to the amount of fine to be inflicted under this clause, which might be any sum from 5s. up to £50. Possibly it might be desirable to limit the maximum amount of the penalty to something less than £50, but he did not think any magistrate would impose anything beyond a mere nominal fine, if the publican showed that he had sold the liquor as he bought it. No doubt it was very desirable that innocent persons should be protected as far as possible, but he thought it would be unwise to weaken the powers of the Act beyond lessening the maximum penalty, or fixing the penalty on a graduated scale,—so much for the first offence, a larger amount for the second offence, and a still heavier penalty for subsequent offences.

MR. VENN thought something certainly ought to be done to protect those who might themselves have been imposed upon as to the quality of the liquor they were selling, and which they had bought and paid for as unadulterated stuff. It appeared to him that the suggestion of the hon. member for the Greenough pointed a way out of this difficulty, by having all liquors analysed in bond.

MR. MARMION said it must be understood that the clause did not apply to publicans only, but also to all licensed persons under the Act, including the wine and spirit merchant and the gallon license holder; and it certainly did seem to him that some protection should be afforded to the innocent vendor. Under this clause a penalty must follow, if the liquor upon analysis turned out to contain any of the deleterious ingredients enumerated in the clause, whether the vendor knew anything about it or not. The publican, however, was the man who was most likely to suffer from this clause, for a constable would hardly poke his nose upon the premises of the wholesale dealer, whereas the licensed victualler would be open at any time to a visit from the police; and, although the publican might have no knowledge whatever that the liquor he was selling was anything but pure unadulterated liquor, the justices would be bound to inflict a penalty if the liquor upon analysis should be found to be adulterated in the slightest degree. He thought there was something in the suggestion of the hon. member for the Greenough, that they should endeavor to trace this adulteration to its original source. The clause as it now stood appeared to him impracticable, and to present difficulties that could not be easily got over unless they had all liquor analysed before it was allowed to go out of the Custom house.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) reminded the committee that a similar provision existed in the present Act, and had existed for years. This clause was simply an amplification of the 71st clause of the principal Act, rendering it of more practical utility by reason of the provision here made for the appointment of a public analyst. But the penalty for disposing of adulterated liquors remained the same as it had been for years past, and he was not aware that it had given rise to any serious hardship or injustice. He quite appreciated the suggestion that liquor should be analysed before it passed into the hands of the licensed vendor, but it was obvious there were difficulties in the way of that being done. It would require an analyst to be attached to every bonded warehouse throughout the colony. He would prefer to see a graduated scale of penalties introduced—say £2 for the first offence, increasing the fine up to the maximum. If the committee did not think that would afford sufficient protection, he should be prepared to suggest the insertion of a proviso at the end of the clause to the effect that if a man shall prove to the satisfaction of the justices that he was ignorant of the fact that the liquor was adulterated, and that he could not by reasonable inquiry have ascer-

tained that such was the case, and that he had been guilty of no negligence in the matter, he should not be convicted.

THE HON. J. G. LEE STEERE said there was a proviso very much to the same effect in the South Australian Act, providing that the person charged might give evidence to show that the liquor sold was in the same condition as when it came into his possession, and that it had not been adulterated by him, nor by any person under his authority. For his own part, he liked this proviso better than that suggested by the Attorney General.

MR. BURT said the clause in the Act now in operation had certainly done no harm hitherto, and it had escaped his attention that such a clause existed in the principal Act. He had not heard of any inconvenience arising from it, and, unless there was good reason to believe that the liquor which reached this colony is as a rule adulterated, or in many instances adulterated, or in more than exceptional cases adulterated, he thought we should do no good by following up the present discussion. He thought the clause might remain as it is. He did not think that as a rule the liquors sent out here were adulterated, or that it would be in the interest of distillers or exporters to send out adulterated liquor to a market like this.

MR. MARMION said the clause in the existing Act had worked no hardship nor inconvenience, simply because it had been looked upon as a dead letter.

MR. CROWTHER: And it has been looked upon as a dead letter, simply because there was no power existing to give it vitality. The machinery was never finished. The motive power was never provided, and so the clause was never put in motion. But it is now proposed to supply that which has hitherto been wanting; and, once you get this public analyst appointed, he must do something to show that he is earning his money. I should be very glad myself if the Attorney General would accept the proviso mentioned by the hon. member for the Swan, as existing in the South Australian Act.

MR. S. H. PARKER thought a graduated scale of fines might be adopted, increasing with the number of offences committed. He would move, as an amendment, that the words "Fifty pounds," in the 20th line, be struck out, and the following inserted in lieu thereof: "£10 for the first, £25 for the second, and £50 for any subsequent offence."

The amendment was negatived.

MR. S. H. PARKER pointed out that under the section, as now worded, a Resident Magistrate could try a case himself, and object to any other justice sitting with him, which was a material departure from the old law, which provided that any two or more justices could adjudicate. The clause also empowered a Resident Magistrate sitting alone to declare a man's license forfeited, which was not in accordance with the principle governing the principal Act. He would move, as an amendment, that all the words between the word "any," in the 14th line, and the word "two," in the 17th line, be struck out.

This was agreed to, and the clause amended accordingly.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the blank left in the clause for filling in the amount of the fine to be paid in respect of the analysis of the liquor—in addition to any penalty imposed for the offence of adulteration—should be filled up by the insertion of "£2."

This also was agreed to.

MR. CROWTHER pointed out that, not content with imposing a penalty, and then fining a man, the clause also gave power to any two justices at their discretion to cancel a man's license. This was piling on the agony a little too much. He thought that to authorise any couple of justices to do this, in addition to inflicting a penalty and a fine, was giving too much power altogether to the magistrates. He would therefore move, as an amendment, that the latter portion of the clause be struck out.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he should have thought they might leave this discretionary power to the justices. There might be some very flagrant case, calling for some more severe punishment than the pecuniary penalty and a fine. It might even answer a man's purpose to pay the penalty and the fine, if he thought he could do a large stroke of business in disposing of adulterated liquor, and providing the justices had no power to order his license to be forfeited.

Mr. S. H. PARKER said although some justices might exercise this discretionary power with great judgment and moderation, others, he was afraid, might not exercise it so wisely. He agreed with the hon. member for the Greenough that it was somewhat too much power to put in the hands of any two justices. He would point out that the mere fact of a man being convicted for selling adulterated liquor would of itself do his house a great injury, and damage his custom very materially.

Mr. LOTON said it appeared to him that if a man should render himself liable to be fined two or three times, under this clause, for deliberately adulterating his liquors, it would be no hardship if he were not allowed a license at all. He did not think this too severe a punishment at all for the man who wilfully and knowingly disposed of adulterated drinks, on more than one occasion.

The amendment submitted by Mr. Crowther was then put, but negatived on the voices.

The Hon. J. G. Lee STEERE then moved that the following words be added to the clause, so as to protect an innocent vendor: "Provided always that any "person charged with any offence against "this section may give evidence on his "own behalf to prove that such liquor "was, when served, in the same condition "as it was when it came into his posses-"sion by a *bonâ fide* purchase, and was "not adulterated or mixed with any "deleterious ingredient by him, or any "person acting under his authority."

The ATTORNEY GENERAL (Hon. A. P. Hensman) thought they ought to go further than that, and provide that the publican, before he could be excused, might show that he exercised reasonable diligence in ascertaining, when the liquor came into his possession, that it was not adulterated. If the committee would consent to report progress, he would draft an amendment which he thought would meet the case, and also the approval of the House.

Progress reported, and leave given to sit again on Friday, Aug. 15.

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

LEGISLATIVE COUNCIL,

Friday, 15th August, 1884.

Petition (No. 2): Harbor Works at Fremantle—Land Regulations: S.O. Licenses and Depasturing Stock—Imported Labor Registry Bill: first reading—Death of Sir F. P. Barlee: Address of Condolence to Lady Barlee—Police Benefit Fund (Message No. 9)—Land Quarantine Bill: second reading—Masters and Servants Bill: motion for second reading—Message (No. 19): Assenting to Bills—Closure of Streets in York Bill: third reading—Wines, Beer, and Spirits Sale Act, 1880, Amendment Bill: further considered in committee—Adjournment.

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

Prayers.

PETITION (No. 2): HARBOR WORKS AT FREMANTLE.

Mr. MARMION presented a petition from the Western Australian Chamber of Commerce, praying that a scheme of harbor works at Fremantle be included in the Loan Bill proposed to be introduced during the session.

The petition was ordered to be printed.

LAND REGULATIONS: S.O. LICENSES AND STOCK DEPASTURING.

Mr. VENN, in accordance with notice, asked the Surveyor General whether it was the intention of the Government to amend the Land Regulations in regard to the holders of Special Occupation Licenses, giving the said holders rights to depasture stock on the adjoining Crown Lands on the payment of certain sums to the lessees of such lands.

The COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) replied that the Government did not intend to propose any further amendment in the Land Regulations during the present session.

IMPORTED LABOR REGISTRY BILL.

The ATTORNEY GENERAL (Hon. A. P. Hensman) moved the first reading of a Bill to provide for the registration of certain persons who shall be imported into Western Australia or employed in any manner within the territorial dominion thereof, and for certain other matters in connection therewith.

Motion agreed to.

Bill read a first time.