

## IN COMMITTEE.

The Bill passed through Committee without amendment or discussion.

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

## LEGISLATIVE COUNCIL,

*Friday, 28th June, 1878.*

The business transacted was of a mere formal character, and elicited no discussion. [*Vide "Votes and Proceedings," p. 87.*]

## LEGISLATIVE COUNCIL,

*Monday, 1st July, 1878.*

Incorporation W. A. Bank Shareholders Bill: Report of Select Committee—Police Force, Perth and Fremantle—Management of Jetties at Fremantle: Transfer of to Municipal Council—Grants for Roads—Dog Nuisance—Police v. Delaporte—Municipal Institutions Act, 1876, Amendment Bill, 1878: in committee—Third Readings—Foreign Seamen Offences Bill, 1878: in committee—Customs Ordinance, 1860, Amendment Bill, 1878—Adjournment.

THE SPEAKER took the Chair at 7 o'clock, p.m.

PRAYERS.

INCORPORATION OF W. A. BANK SHAREHOLDERS BILL: REPORT OF SELECT COMMITTEE.

THE ATTORNEY GENERAL (Hon. H. H. Hocking) brought up the report of the Select Committee appointed to inquire and report on the allegations contained in the preamble of a Bill to incorporate the W. A. Bank.

Report received and read, as follows:

"Your Committee have now the honor to report to your Honorable Council that we have inquired into the truth of the allegations contained in the preamble as to the amount of the reserve fund of the W. A. Bank, and have satisfied ourselves as to its correctness."

Report ordered to be printed.

POLICE FORCE, PERTH AND  
FREMANTLE.

Mr. CAREY, in accordance with notice, moved—"That a return be laid on the Table of the House, before the Estimates for 1879 are brought forward, showing the number of officers and men added to the detective force since the date of the return called for on the 10th inst.; and a list of the cases that resulted in convictions through the instrumentality of the detectives, out of the 185 shown on said return as "detected:" also a return showing the number of officers and men stationed in Perth and Fremantle from the 1st April to 31st May in the present year; their separate duties and employment being shown; the number daily available and told off for town duty to be distinguished from those employed as orderlies, on escort, or patrol duty: also the number of horses attached to the police stables for the same period; and how employed? Also the average number of officers, men, and horses at Perth and Fremantle for the year 1865." The hon. member said that his object in moving for these returns was in order to remove or confirm a feeling of dissatisfaction which he said existed with regard to the manner in which the police department was conducted.

MR. MONGER seconded the motion. THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the Government was at all times desirous to afford hon. members every useful information connected with the public service, but he submitted that the information here asked for could not be regarded as such. Nor was he prepared at the present moment to give all the returns called for. If, however, the House expressed a wish that the whole of the detailed information sought for by the hon. member for Vasse should be forthcoming, and that it

was expedient and desirable that the returns asked for should be made public, the Government would willingly bow to that decision. Before, however, asking the House to express an opinion on this point he would draw attention to the nature of the various returns called for. With reference to the first part of the motion, no further information was to be added beyond that afforded hon. members in the report of the Superintendent of Police, already presented to the House. The next return asked for—a list of the cases which resulted in convictions through the instrumentality of detectives—he now laid on the Table. As to the return showing the “number of officers and men stationed in Perth and Fremantle from the 1st April to 31st May in the present year—their separate duties and employment—the number daily available and told off for town duty as distinguished from those employed as orderlies, on escort, or patrol duty”—this was a return the preparation of which, he need hardly point out, would involve no small amount of labour. There were thirty seven men stationed at Perth and Fremantle during the period referred to, which extended over sixty one days; 37 multiplied by 61 gave 2,137, and the return, in the first place would necessitate that number of entries. With reference to the horses attached to the police stables, he might say there were fourteen during the same period employed, which number multiplied by sixty-one—the number of days referred to—gave 854 more entries, or a total of over three thousand. This compilation would engage the attention certainly of one or two clerks for a considerable period of time. The hon. member requested that the return should be laid on the Table before the Estimates were brought forward: this he (the Colonial Secretary), certainly was not in a position to do. He could not engage to produce an elaborate return of this nature under a fortnight's time, and that, too, at very considerable expense; and he did not think he would be justified in postponing the introduction of the Estimates that length of time. If, however, the House expressed a wish that the information asked for should be furnished, the Government would be prepared to comply with that wish.

MR. CAREY did not think the returns

would involve such an amount of labor and research as the Government seemed to think: he did not intend that they should include the minutiae of the duties performed by each individual constable, but merely the nature of the employment—whether engaged as orderlies, on escort, or patrol duty. If the Government would accept his services for the purpose of assisting in the compilation of the returns, he would readily place them at their disposal, and he thought that, with the assistance of one clerk, the preparation of the return would not occupy more than a day, much less a fortnight. Hon. members were perfectly well aware that there existed a feeling of dissatisfaction outside with regard to the police force; if there was any ground for that dissatisfaction the Government ought to court inquiry and not try to stifle it; on the other hand, if there was no foundation for the feeling referred to, the returns asked for would remove any erroneous impression that might exist.

MR. BROWN said this was the first instance which he was aware of in which the House was asked to affirm or negative a motion for a return of this character. As a rule hon. members were satisfied with asking a question, on their own individual responsibility, and the Government decided whether, in the interests of the public, they deemed it expedient or otherwise to grant the information asked for. But in the present instance the House was requested to adopt a distinct motion for the production of certain returns. At first sight, and without giving the matter very much consideration, he would be inclined to say that members should have a great deal of freedom afforded them in asking for returns relating to the public service, but when he found that these returns, as in the present instance—at any rate, according to the opinion of the Government—would involve as much as a fortnight's labor by two clerks, and that the papers asked for were to be laid on the Table before the Estimates were brought forward, he must say that he would like to hear some better reason for affirming the motion before the House than he had yet heard. At the same time he was satisfied that all the information which the hon. member asked for might be obtained by him personally

from the Government, who no doubt would offer no objection to his inspecting the returns of the department with respect to which he required information.

SIR T. COCKBURN-CAMPBELL thought the House must agree with what had fallen from the hon. the Colonial Secretary, that the Government had evinced every desire to afford information to hon. members, and he must say it appeared to him that the House had been rather careless in the way of asking for returns, thereby putting the Colony to unnecessary expense, and wasting the time of public servants when there was no real occasion for it. There was one thing which he thought the House should bear in mind,—that these returns, although asked for by individual members, were in reality intended for the information of the Council in its collective capacity and not for the gratification of individual members' thirst for knowledge; and he thought the House, before affirming the motion now before it,—which if carried into execution would involve a considerable amount of time and labor,—should be fully satisfied that there was some good object to be gained by the production of the returns asked for. He did not see himself that the hon. member for Vasse had given any satisfactory reasons for producing them—nor, indeed, any particular reason at all, beyond the allegation that there existed some feeling of dissatisfaction outside with regard to the police force. Personally, the hon. baronet failed to see how the issuing of these returns would in the least degree allay that feeling of dissatisfaction. Although the hon. member admitted he did not require the returns to be prepared in the elaborate manner which the Government conceived he had, still it must be apparent that the compilation would necessitate a reference to each of the three thousand items referred to by the hon. the Colonial Secretary, and, in view of this, the hon. baronet was induced, as an amendment upon the resolution before the House, to move "the previous question."

MR. BURT thought individual members sometimes asked for official returns when really they had no sufficient grounds for doing so. He would ask the hon. member for Vasse what on earth he intended to do with these

returns when he got them? So far as he (Mr. Burt) could see, no sufficient reason had been given for their production, and until that were done he would oppose a motion which appeared to him to involve an unnecessary expenditure of time and labor.

MR. CAREY said his sole object in moving for the returns was with a view to confirm or remove the impression which—whether erroneously or not, he did not say—undoubtedly existed in the public mind that the police department was not managed as it ought to be.

MR. BURT thought the hon. member would have been more in order had he moved a resolution to the effect that a feeling of dissatisfaction with the police force did exist. Personally, he did not at all agree that any such feeling existed.

The motion on being put to the House was negatived.

#### MANAGEMENT OF FREMANTLE JETTIES: TRANSFER OF TO MUNICIPAL COUNCIL.

MR. MARMION, pursuant to notice, asked the Colonial Secretary to lay on the Table, copy of any correspondence that had taken place between the Government and the Fremantle Municipal Council, relative to the proposed transfer of the management of the jetties at that town from the Government to the municipality; and, further, that he would be pleased to inform the House whether any serious objections were offered by the Government to such proposed transfer, and, if so, the nature of these objections.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the facts of the case were—the jetties at Fremantle were leased by a contractor, who pays £535 per annum to the Government. The contractor applied to have the old jetty and platform put in thorough repair, and the matter was referred to the Works Department, who reported that this would cost £500. The fact of the revenue derived being at the moment overlooked, the department was instructed to ask the municipality if they would take the jetties over; and the municipality offered to do this, provided that they were first put in repair. Further inquiry elicited the facts he had

mentioned. No further offer was made to the municipality, nor was it the intention of the Government to do so. Strictly speaking, there was no correspondence on the subject.

MR. MARMION expressed a hope that the matter would receive further consideration at the hands of the Government, for there was no doubt that the management of the jetties in the hands of the municipal authorities would afford greater satisfaction to the mercantile community than the present system of management.

#### GRANTS FOR ROADS.

MR. SHENTON, in Committee of the whole House, moved, That an humble address be presented to His Excellency the Governor, praying that he will be pleased to place on the Estimates the following amounts—£100, to clear a road from Newcastle to the Eastward Station, also to sink wells on that line of road; and £50, to clear the road between Yatheroo and Dundaragan.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) suggested that a better time for dealing with the motion would be when the Estimates were under consideration, and the vote for roads and bridges discussed.

MR. SHENTON said he had no objection to the question being postponed until then.

Progress reported accordingly.

#### DOG NUISANCE.

MR. SHENTON asked the Colonial Secretary whether it is the intention of the Government to take any steps to abate the dog nuisance?

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) replied that His Excellency the Governor considered the provisions of the 10th Vict. No. 5 sufficient to meet the case, and instructions had been issued to the Superintendent of Police, and the Resident Magistrates, and Justices of the Peace, to strictly enforce the Act referred to, which, there was every reason to believe, would abate the nuisance complained of.

#### POLICE VERSUS DELAPORTE.

MR. CAREY, in accordance with notice, drew the attention of the Council to a

police case heard at Bunbury, on the 2nd May last. (*Police v. Delaporte*), under "The Wines Beer and Spirit Sale Act" (36th Vict., No. 11). The facts of the case were these: On the 27th April last, on the occasion of His Excellency's visit to Bunbury, the vice-regal party were staying at the "Wellington Hotel" in that town, and a police-constable was stationed on duty in the neighborhood of the hotel. In the evening, Mr. Delaporte, the landlord of the "Rose Hotel" found a man drunk on his premises, and ordered him out, but the man declined to go, and the landlord sent his barman for a police constable. The barman could only find the constable who was on duty at the Wellington Hotel, who of course could not leave his post; but a little later in the evening, another policeman who happened to pass by Delaporte's house saw the drunken man on the premises and conveyed him to the lockup. Next morning the man was convicted of being drunk, and the landlord was summoned for allowing him to remain on his premises while in a state of intoxication, and fined £2, notwithstanding the fact that the constable who was on duty at the Wellington Hotel distinctly swore that Delaporte's barman had called upon him to remove the man off the premises. Mr. Delaporte, believing that His Excellency the Governor would remit the fine when informed of the circumstances of the case, did not appeal to the Supreme Court; but when the matter was referred to the Governor, His Excellency declined to interfere because the defendant had not availed himself of the right (which the Act gave him) to appeal against the decision of the Magistrate to the Supreme Court. These were the simple facts of the case, and having placed the House in possession of them, he would conclude by moving the following resolution: That in the opinion of this Council the fine imposed by the Resident Magistrate at Bunbury on the 2nd May last, in the case of the *Police v. Delaporte*, is not in accordance with the meaning or intention of the Act under which the information was laid (39th Vict. No. 11).

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) pointed out that in cases of this nature, if a man did not chose to avail himself of the means of redress which the law placed at his dis-

posal, by appealing to a superior court, it placed His Excellency the Governor in a very false and invidious position. His Excellency was bound, in the interests of justice, to refrain from exercising the prerogative of the Crown until every means which the law provided had been exhausted by a defendant. In the case here referred to, the defendant had neglected to exercise his right of appeal to the Supreme Court, possibly in the belief that the decision of the committing Magistrate would be confirmed by His Honor the Chief Justice—a decision which in his (the Colonial Secretary's) opinion, after a perusal of the depositions, was a right one. This was not the first occasion on which the same publican had been convicted of a similar offence; and, regard being had to all the circumstances of the case, he thought the House would do well to pause before affirming the motion introduced by the hon. member for Vasse. He would say no more, beyond (as an amendment) simply moving "the previous question."

THE ATTORNEY GENERAL (Hon. H. H. Hocking) in seconding the amendment, said if the House were to affirm a resolution of the nature of that proposed by the hon. member for Vasse, and to review and pass in judgment the decisions of Magistrates, it would affirm a principle which in practice would be fraught with very evil consequences. He would like to know by virtue of what function that Council was to sit as a judicial court of appeal, and to review cases which had been adjudicated upon in established courts of law? The Council was a legislative and deliberative body and not a judicial assembly, and, to his view, it would be most prejudicial to the administration of justice if the House were to entertain cases of this kind, and to express opinions upon the decisions of justices without being in a position to give effect to those opinions. However much hon. members might condemn the judgment of a court of law, they were powerless in the matter of remitting a conviction. There was another thing to be considered—committing Magistrates at any rate had the opportunity of seeing the various witnesses brought forward, and of hearing them give their evidence, and the Chief Justice was in the same position in cases heard at the Supreme

Court. Hon. members had not this opportunity, and, under any circumstance, no court would ever proceed to judgment upon a mere *ex parte* statement, such as that which the House had heard from the hon. member who had moved this resolution. How could the House come to a decision upon a question of this kind, involving, as it did, the character for ability, at any rate, of a Magistrate, without knowing more of the case than it now did? He certainly thought this was an instance in which it was right and proper to move "the previous question." The Government, he was sure, did not wish the House to express its approval of the magisterial decision in question, but conceived it would be injudicious on its part to express any opinion whatever in the matter. He was aware that the attention of the House of Commons was occasionally called to cases where it was supposed injustice had been inflicted; but when that was done, the House was placed in possession of some materials to go upon, and to enable it to arrive at a conclusion, whereas in the present case the only means which the House had of forming a judgment was the *ex parte* statement of the hon. member who had brought forward the resolution. He thought the House should be very slow to take any steps in a matter of this kind unless it were shown that the person concerned had exhausted every means of redress which the law had provided for those who considered themselves aggrieved and dissatisfied with magisterial decisions. The Legislature had vested certain powers of summary conviction in Justices of the Peace and stipendiary Magistrates, and, at the same time, by way of a safe-guard, had extended to the person convicted the right of appeal to a higher tribunal; and unless a man thought fit to exercise that right, but chose rather to rely upon the clemency of His Excellency the Governor, the House would act very injudiciously and very unwisely if it proceeded to adjudicate upon the matter, on a mere *ex parte* statement.

MR. CAREY: No one knows better than the Attorney General himself that Delaporte could only appeal on a point of law. The depositions showed clearly enough that he did all he could to get the man removed off the premises, and

yet in the face of that he was convicted. There was nothing in the depositions to show that he could appeal on any point of law, and he therefore took the only course open to him. Yet the Governor tells him he cannot interfere because he did not appeal to the Supreme Court, when in point of fact he had no grounds upon which to base such an appeal, as there was no point of law involved.

Motion negatived.

#### MUNICIPAL INSTITUTIONS ACT, 1876, AMENDMENT BILL, 1878.

This Bill was recommitted, and some verbal amendments made in clauses 3 and 4. (*Vide* "Votes and Proceedings," p. 92.)

#### THIRD READINGS.

The "Wild Cattle Nuisance Act, 1871, Amendment Bill, 1878," and The "Vaccination Bill, 1878," were read a third time and passed.

#### FOREIGN SEAMEN OFFENCES BILL, 1878.

##### IN COMMITTEE.

Clause 1.—Short title:

Agreed to.

Clause 2.—Interpretation of terms:

Agreed to.

Clause 3.—"If any seaman belonging to any foreign vessel in any port, harbor, roadstead, or river of Western Australia, or otherwise within the limits thereof, shall desert from such vessel or otherwise abscond or absent himself from his duty, or shall be charged with having committed any of the offences hereafter in the next section enumerated, any Justice, upon information on oath of the master, mate, or other person having charge of such vessel, may issue his warrant for the apprehension of such seaman, and thereupon, at the request of such master, mate, or other person informing as aforesaid, may order such seaman to be put forcibly on board the vessel to which he may belong, or may deal with such seaman as hereinafter provided, or may place such seaman at the disposal of the consul of the nation or state to which such vessel shall belong."

THE ATTORNEY GENERAL (Hon. H. H. Hocking) moved, That after the word "seaman" and before "belonging" in the first line, the words "not being a slave," be inserted:

Agreed to.

Clauses 4 to 11—agreed to.

Bill reported.

#### CUSTOMS ORDINANCE, 1860, AMENDMENT BILL, 1878.

The Order of the Day for the further consideration of this Bill in Committee was postponed until Wednesday, 3rd July.

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

#### LEGISLATIVE COUNCIL,

*Tuesday, 2nd July, 1878.*

Transfer Duty Bill: second reading; in committee—Postal Card System—Payment by Postage Stamps for despatch of Telegrams—Transfer of Land Act, 1874, Amendment Bill, 1878: recommitted—Foreign Seamen Offences Bill, 1878: recommitted—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

#### TRANSFER DUTY BILL.

MR. BURT, in accordance with notice, moved the second reading of a Bill to enforce the payment of duty on the transfer of land. It would be in the recollection of hon. members that, for some unaccountable reason, on the last occasion he had brought forward this Bill they did not think fit to agree to the motion for the second reading, but he believed that a majority were now prepared to support the Bill. He had already stated his reasons for introducing it, the whole object of the Bill being to enforce the payment of a duty already imposed by law. The only objection