

"earmarked." The hon. member said he had no wish at this late hour to press the Committee to accept the clause, without further opportunity of considering it, and, as he understood it was the desire of hon. members that its consideration be postponed, he would move that Progress be reported and leave given to sit again on Friday, 8th September.

Agreed to.

Progress reported.

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

LEGISLATIVE COUNCIL,

Thursday, 7th September, 1882.

Eastern Railway: Warehouse accommodation at Chidlow's Well—Goldfields Legislation—Estimates: further considered in committee—Stamp Duties Bill: in committee—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

TEMPORARY WAREHOUSE ACCOMMODATION AT CHIDLOW'S WELL.

MR. SHENTON, in accordance with notice, asked the Colonial Secretary, "What arrangements the Government intend making for the purpose of allowing the public to erect temporary warehouses at the Chidlow's Well Station, on the Eastern Railway." The hon. member said it appeared from the reply given to his question the other day that the final survey of the third section of the line would occupy about eight months, and, after that, there would be the time required for constructing the line—so that it was not likely the railway would be carried through to York in less than about three years from the present time. But he believed the second section would be completed in about nine months hence, and that it was proposed

to have the line as far as Chidlow's Well open for traffic by the 10th of June next; consequently most of those who had business relations with the Eastern Districts would require to erect temporary warehouses at that station. He did not presume that any very large blocks of land would be required for that purpose, and he supposed the Government would be prepared to let sites for warehouses at a mere nominal rental, for the short time they would be required. He thought the Government would act wisely in affording every facility to the public with regard to the erection of these warehouses, as by so doing they would ensure all the traffic of the surrounding districts for the railway.

THE COLONIAL SECRETARY (Lord Gifford) replied, "That after providing for the requirements of the Railway the Government proposed letting sites for warehouses at Chidlow's Well, for (say) three years, with a right of purchase within that period, at a price to be determined."

GOLDFIELDS LEGISLATION.

MR. BROWN moved the adjournment of the House, in order to bring under the notice of the Government the reply given by the noble lord the Colonial Secretary to the question asked, the day before, with reference to goldfields regulations. The hon. member asked whether it was the intention of the Government to introduce a Mining Act during this Session of Council, and, if not, to inform the House under what regulations mining for gold would be prosecuted until such an Act is in force. The reply of the noble lord was that it is not proposed to bring in a Mining Act this Session, as the Governor was advised that under the "general authority of the Crown," he can, in the event of gold being discovered, make such temporary regulations as will meet the requirements of the case. What he (Mr. Brown) wished to point out was that there had been an Act in force for many, many years (17 Vict., No. 17) which in his opinion, and in the opinion of many others, amply met the requirements of the case, without any reference to the "general authority of the Crown." The reply given by the leader of the Gov-

ernment would leave an impression that the Government were not aware of the existence of this Act, but relied upon the "general authority of the Crown," to enable the Governor to make temporary regulations under which mining for gold may be prosecuted. The Act referred to empowered the Governor in Council to make such regulations, which would have the force of Legislative enactment for a period of three months, unless sooner rescinded. The owners of fee simple land had always considered that the provisions of this Act would apply to land held by them, and he trusted they were not wrong in their impression. It might be said it was very strange the Legislature of this Colony, when the Colony had not even Representative Government, should have passed an Act of this kind, dealing with Crown Lands which were vested in the Imperial Government; but the fact remained that the Act had received the assent of her Majesty's Secretary of State, and, therefore, he should imagine that it had the force of law. If not—if this Act did not empower the Governor to frame regulations under which gold mining may be prosecuted—he thought it desirable the House should know something more than it did now as to the "general authority of the Crown," under which they were told the Governor had power to frame such regulations.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said the Act referred to by the hon. member had not escaped the notice of the Government; on the contrary, the Government had given it due consideration, and in answer to the hon. member's inquiry, he had to state that, in the opinion of the Government, the Act in question was still in force. The hon. member, with his usual perspicacity and knowledge of constitutional questions, had certainly pointed out what appeared a peculiarity in the Ordinance referred to, namely, that it dealt with the land question, which the hon. member said was a question which it was not within the province of the local Legislature to deal with, usually speaking. But the hon. member had also pointed out that the Act, whether rightly or wrongly, had received the sanction of the Secretary of State, and therefore it

was impossible to say that the Act was not in force. The hon. member, however, did not appear to have read the Act very carefully, otherwise he would have observed that it dealt with discovered goldfields; it presumed—at any rate, that was the construction put upon it by the Government—that the goldfield in respect of the working of which regulations had to be framed was already in existence as a goldfield. But it was very possible we may have to deal with another state of affairs. There would be rumours of a goldfield having been discovered—he would not say there might be no probability of the rumours being true; at all events, it was possible they might prove untrue—and the Government might be called upon to make regulations under which the working of this land which was not yet a goldfield but which might become a goldfield, was to be carried on; and it was in view of that state of affairs that the noble lord's answer had been given the other evening, the Governor having power, irrespective of the Act referred to, to frame regulations to control the working of land which was simply believed to be auriferous but which had not yet become a workable goldfield. That power was vested in the Governor under the "general authority of the Crown."

The motion for adjournment was negatived.

ESTIMATES.

The House then went into Committee of Supply for the further consideration of the Estimates.

The Item "*Works and Railways Department, £16,489 16s.*" was postponed.

Postal and Telegraph Department, Item £21,461 :

THE COLONIAL SECRETARY (Lord Gifford) said hon. members would observe that the Government proposed to give the Postmaster General an increase of £50. This would make the salary of that officer £500. Mr. Helmich had been in the service since 1840, and the noble lord was sure the Committee would recognise his claims to this increase. There were other increases in connection with this department, which hon. members would see on reference to the Estimates, chiefly relating to the subordinate officers of the department.

MR. S. H. PARKER failed to see the necessity of providing so many post offices at small country places. Formerly people in the bush were quite satisfied without having their letters brought to their very doors, so long as they could get them at a neighbor's; but now they not only wanted their letters brought to their houses, but they actually wanted to be paid for receiving them, and those of a few neighbors.

THE COLONIAL SECRETARY (Lord Gifford) said the reason why they had paid postmasters in these out of the way country places was this: by paying them they were officially recognised as servants of the Government, and were legally responsible for any breach of trust or misdemeanour.

MR. MARMION asked the noble lord if he was aware whether the officers of the telegraph department, who were to receive an increase of salary, were satisfied with the proposed increase?

THE COLONIAL SECRETARY (Lord Gifford) said he had reason to believe that they were. The noble lord then moved the addition of several small sums to the salaries of the subordinate officers of the department, among them being an increase of £5 to the suburban letter carrier, employed at Perth, which the noble lord said was given in consideration of the officer in question having to keep a horse.

MR. CAREY said there was a great difference between this officer's forage allowance and that of other officers, who were allowed £150 a year for that purpose, whereas this man only got £5 to keep his horse.

MR. MARMION: Perhaps it's a rocking horse.

MR. BURGESS suggested the employment of bicycles by letter-carriers and telegraph messengers.

MR. STEERE called attention to the unsatisfactory working of the Bunbury telegraph line. When the weather was in any way unpropitious, he noticed that interruption of communication on this line was a matter of daily occurrence. The last time he spoke to the Superintendent of Telegraphs on the subject, the reason given by that officer for the unsatisfactory working of the line was that the boy who held the office of operator at Bunbury was deaf.

THE COLONIAL SECRETARY (Lord Gifford) said the next substantial increase he had to propose was, that the salary of the Fremantle postmaster be increased from £175 to £200.

MR. MARMION: As good a man as there is in the service, and I congratulate the noble lord upon his spontaneously recognising the merits of a most deserving and obliging officer.

THE COLONIAL SECRETARY (Lord Gifford) said it was also proposed to provide two additional junior messengers in connection with the post and telegraph office—one at Perth and one at Fremantle.

MR. MARMION urged the desirability of establishing a telegraph station in the neighborhood of Mt. Barker on the Albany Road, between Kojonup and the Sound. He thought it was their duty, as far as possible, to give settlers the full benefit of telegraphic communication, and he believed there was a considerable number of people residing in this neighborhood, to whom the establishment of a local telegraph station would be a great boon. He was assured by the hon. member for the district that the public would regard it as such, and the hon. baronet himself would have brought forward the subject had he not been in the Chair.

THE COLONIAL SECRETARY (Lord Gifford) said no doubt there was a very long stretch of road between Kojonup and Albany unprovided with the means of telegraph communication. The hon. member for Plantagenet had brought the matter under the attention of the Government, and they had every desire to meet the hon. baronet's views. A station at Mount Barker would probably cost about £60 the first year, but a difficulty presented itself as to working it. The Government, on inquiry, found that there was no one in the neighborhood able to undertake charge of the office, except the wife of a constable, who would have to be trained, and the probability was, that, when so trained, she might with her husband be removed to some other station. The Government, however, were anxious to meet the wishes of the settlers as far as they could, and a proposal would be made to them having that object in view. Should an arrangement be mutually arrived at, and the Government considered it expedient to establish a station there, a sufficient sum for doing so might be

provided out of the vote for contingencies next year; and, in the event of the Government incurring this expenditure, he should ask the House to ratify it next Session. It was the wish of the Government, as far as they could, to meet the views of the hon. member representing the district, and of the settlers generally.

MR. S. H. PARKER created a diversion by testing the geographical and topographical knowledge of the noble lord on the Treasury Bench, with reference to some of the outlying districts on the Estimates, such as Cheangwa, Maradong, Moodgebul, and again expressed his opinion that there could hardly be any necessity for a post office at all these outlying hamlets.

Item: Conveyance of mails throughout the Colony (inclusive of North District), £8,080:

THE COLONIAL SECRETARY (Lord Gifford) said he had already informed the House that the Government contemplated making arrangements for establishing more frequent postal communication with the principal towns in the Eastern Districts, as soon as the second section of the railway is completed,—the idea being to run a mail three times a week to York, Newcastle, and Northam, and *vice versa*. He did not know yet whether we should be able to do this without increasing the cost of the present service, but he did not anticipate any large increase of expenditure. It was also proposed to afford the settlers at the North-West additional postal facilities, for the whole of the country westward and eastward of Roebourne. The probable cost of this service was estimated at about £300 a year. The settlers in that part of the Colony had no postal facilities at present, and as the mail steamer was about to call there periodically, it was thought advisable that the settlers should be placed in postal communication with the capital.

MR. BROWN expressed a hope that the Government would re-establish postal communication with Narra Tarra.

THE COLONIAL SECRETARY (Lord Gifford) intimated that, if he found there were just grounds for doing so, the Government would not be indisposed to comply with the hon. member's request, and he would increase the vote by £80,

in the event of the Government deeming it desirable to do so.

The departmental vote was then agreed to.

Land Titles Department, Item £965:

THE COLONIAL SECRETARY (Lord Gifford) pointed out that it was proposed to increase the salary of the Registrar of Titles from £250 to £300. It was true that this officer had only recently been appointed, and, for that reason, he (the noble lord) felt some diffidence in asking the Committee to agree to this increase; but he thought it would be generally recognised that the officer in question had discharged the somewhat tedious and onerous duties of his position with every satisfaction to the public, and especially to the members of the legal profession. The work of this office had increased very considerably of late,—so much so that the Government found it necessary to place a sum on the Estimates for the salary of a probation clerk.

MR. S. H. PARKER had much pleasure in supporting the proposal to increase by £50 the salary of the Registrar, who certainly was a most deserving officer and did his work admirably. Bearing in mind that he was a professional man and that he had professional duties to perform, and regard being also had to the fact that additional duties would be imposed upon him under the amended Stamp Act, he thought the least the Government could give him was £300 a year.

MR. SHENTON said he fully endorsed all that had fallen from the hon. member for Perth, with reference to the Registrar of Titles. If it was true that the Commissioner of Titles was about to quit our shores for the mother country—as he understood was the case—he thought this would be an opportune time for passing a resolution, expressive of the opinion of the Council that, in the event of the present Commissioner retiring, the salary attached to the office should not be more than £500. There was a great discrepancy between the salary of the Commissioner and that of the Registrar, but, from all he had seen, the Registrar had quite as much, if not more, work to do than the Commissioner had. This arrangement would effect a saving of £100 a year, and would cover the salary of the probation clerk which it was proposed to give the department.

THE COLONIAL SECRETARY (Lord Gifford) said he was not aware that the Commissioner of Titles proposed to leave our shores; at the same time the suggestion made by the hon. member for Toodyay as to the salary of the Commissioner's successor—when the time came for appointing a successor—was one well worthy of consideration, although at present it was somewhat premature.

MR. BURT could not at all agree with the suggestion referred to. The office was one which required to be filled by a professional man, and he did not think £500 a year was likely to tempt many competent men of that class to come here. In other colonies where Torrens' Act was in operation, they had to employ an Examiner of Titles, the duties of which officer here fell upon the Commissioner. He noticed that it was proposed to withdraw the officer provisionally employed in this department, and he was afraid the result would be that so much work would be thrown on the shoulders of the Registrar that it would be impossible for him to carry it out. The establishing of telephonic communication with this office would be an immense convenience to the public and to the legal profession.

MR. S. H. PARKER said it struck him that the work of the officer provisionally employed in the Land Titles Department would not be finished by the end of the current year, and it would be most disastrous if the work on which he was engaged were not completed. So far as it had gone, the work had been done admirably, and he would ask the noble lord whether it would not be better to take a vote to cover the expense of completing the work.

THE COLONIAL SECRETARY (Lord Gifford) said he was informed by the officer responsible for the working of the department that the indexing would be completed by the end of the year; and it would be for the Department then to keep it up.

The item was then agreed to.

Medical Department, Item £8,313:

This item was postponed.

Harbour and Light Department, Item £3,810:

MR. SHENTON said it appeared from certain papers before the House that, after this year, the Colony would have to provide its own Water Police, and that

the present force would have to be reorganised. He thought some arrangement might be made under which the boats belonging to the department might be disposed of, and, in lieu thereof, that a steam launch might be provided for the use of the Harbour and Light Department. He believed, from inquiries he had made, that a suitable boat might be got—a first class steam launch capable of doing the work in any weather, and also of performing the Rottneest work, and occasionally able to act as a tug for the assistance of vessels that may happen to become becalmed in any of the passages, or, if occasion required, to proceed to Rockingham—he was informed that the cost of such a vessel, which could be built in the Colony, with engines complete, would not be more than about £1000, from which the amount realised by the sale of the water police boats would be deducted. He commended the suggestion to the consideration of the Government.

The vote for the Harbour and Light Department was then agreed to, and Progress was reported.

STAMP DUTIES BILL, 1882.

The House then went into Committee for the consideration of this Bill, in detail.

Clause 1.—Short title:

Agreed to.

Clause 2.—Act to come into operation on the 30th September, 1882:

MR. MARMION thought it would be better to extend this period, inasmuch as several new provisions were introduced into the Bill of which the general public were not cognisant, and it would take some time before it was printed and ready for circulation.

MR. BURT said that the matters in which the general public were interested were in no way altered by the present Bill; it was only such matters as affected the profession which were affected, and it would not prejudice anyone if the Bill came into operation to-morrow. He thought the public ought to have the benefit of it as soon as possible, as it was in some respects a measure of relief, especially as regards mortgages and bills of exchange.

The clause was agreed to, as printed. Clauses 3 to 15:

Agreed to, *sub silentio*.

Clause 16.—“If the Colonial Treasurer or any Sub-collector of Revenue be satisfied that the omission or neglect to stamp or sufficiently stamp any instrument did not arise from any intention to evade payment of the proper stamp duty, he shall remit the fines prescribed by section fourteen of this Act. Provided that such instrument be produced to the Colonial Treasurer or Sub-collector within twelve months after it was first executed. And any unstamped or insufficiently stamped instrument, not otherwise herein provided for, which has been first executed at any place out of Western Australia may be stamped at any time within two months after it has been first received in Western Australia on payment of the unpaid duty only, and the stamp cancelled by the Colonial Treasurer or any such Sub-collector of Revenue.”

MR. S. H. PARKER thought the time within which an insufficiently stamped instrument might be stamped after its receipt in the Colony, dating from the date of its first execution, ought to be longer than two months. An instrument might be first executed in England, and the party interested in it here might reside in the Kimberley District. He would move that the word “four” be substituted for the word “two,” in the 17th line.

This was agreed to, and the clause as amended put and passed.

Clauses 17 to 37:.

Agreed to, *sub silentio*.

Clause 38.—*Ad valorem* duties upon bills of exchange and promissory notes drawn or made out of Western Australia to be denoted by adhesive stamps, and every person into whose hands such bill or note comes in Western Australia, before it is stamped, shall, before he presents it for payment, or in any way negotiates it, affix thereto a proper adhesive stamp or stamps of sufficient value, and cancel every stamp affixed thereto: Provisoers for the protection of *bonâ fide* holders.

MR. CROWTHER failed to see why the provisions of this clause should not apply to local or inland bills as well as to foreign bills.

THE ATTORNEY GENERAL (Hon. A. C. Onslow): Upon the broad principle which governs every Stamp Act in the world. Foreign bills are exempted for the reason, I presume, that the probability is that stamps of the Colony would not be procurable there.

The clause was then passed.

Clause 39.—Bills and notes purporting to be drawn abroad to be deemed to have been so drawn, although in fact they may have been drawn within the Colony:

Agreed to, *sub silentio*.

Clause 40.—Penalty for issuing or negotiating unstamped notes or bills. Bill of exchange or promissory note bearing sufficient stamps, in the hands of a *bonâ fide* holder, to be deemed duly stamped:

MR. CROWTHER suggested that provision should be made whereby the *bonâ fide* holder of a bill, under certain circumstances, might, in the event of the bill not having been stamped when it came into his possession, be permitted to stamp it, and thereby render it negotiable. This would avoid a great deal of unnecessary delay and inconvenience in the case of merchants and others dealing with country people, who probably would not think of stamping a bill or note before sending it back accepted. It appeared to him, so long as the revenue is not defrauded, it did not matter much who stamped the bill, so long as the transaction was a *bonâ fide* one, and there was no intention to defraud.

MR. BURT was afraid that, unless they provided some penalty, the result of adopting the suggestion of the hon. member for Greenough would be that people would never comply with the provisions of the Act, and we may as well be without it. Very often the holder of a bill may not choose to stamp it, and the revenue would be to that extent defrauded, unless a provision were introduced rendering it obligatory upon the holder to stamp, which, in some cases, might be a hardship upon the holder.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said every Stamp Act upon its first introduction must, in its operation, be attended by a certain amount of friction, and he thought very few Bills would be attended with less friction than this Bill. He thought it

would be much to be deprecated if they did not educate the people of the Colony up to the commercial principles upon which the English law is based.

MR. SHENTON said no promissory note could be negotiated unless it was duly stamped, and, as pointed out by the hon. member for Greenough, it mattered not to the Government who paid for the stamps.

MR. S. H. PARKER said it happened often that when a creditor got a bill of exchange or a promissory note into his possession he might be very loth to part with it, or send it back to a debtor, in case he might never see it again, and as the Bill now stood the holder of the bill, though a *bonâ fide* holder, could do nothing with it, nor could the Treasurer even stamp it. He thought special provision might be made that any party to a bill may stamp it.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said there must be a great deal of the "give and take" principle introduced in the working of a measure of this kind, and the law must necessarily wink at a great deal done, under such a measure. How, for instance, was it to be proved that it was the creditor and not the debtor who stamped the note or bill? A good deal of this sort of thing would, of necessity, be done behind the law (as it were); but he thought they ought to insist upon the principle that these bills of exchange or promissory notes must be stamped by the person executing them, in the first instance.

MR. BURT pointed out that under the next clause the stamp upon a bill may be cancelled by any party thereto; why not extend the same principle to stamping it? So far as he was concerned, he should not have the slightest hesitation in placing a stamp on a bill and then cancelling it. This Act did not contemplate that the Government should be constantly tracking people up, for every petty breach of it; but the only question was whether the House should not recognise the principle which governed this clause. If the law winked at it, well and good; and no doubt it would wink at it occasionally.

MR. CROWTHER said the hon. member might look upon the matter as a very light one, but he assured him the bankers did not do so, and were very

particular indeed as to who stamped a bill.

MR. MARMION pointed out that it would be a very easy thing to tell at a glance whether the proper party had cancelled a stamp, from the handwriting.

MR. CROWTHER moved that the further consideration of this clause be postponed, until the remaining clauses had been dealt with.

This was agreed to.

Clause 41.—Stamp upon a bill of exchange or promissory note may be cancelled by any party thereto:

MR. S. H. PARKER suggested that the same provision should apply to affixing the necessary stamps on these instruments.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) thought it would be a great pity if we were to lose the benefit of the decisions of English courts of law upon these matters, and for that reason he thought we should endeavor to have the Bill framed as near as possible on the lines of the Imperial Act. He therefore hoped the hon. member would not press his suggestion.

The clause was then agreed to.

Clauses 42, 43, and 44:

Agreed to, *sub silentio*.

Progress reported.

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

LEGISLATIVE COUNCIL,

Friday, 8th September, 1882.

Coastal Steam Service trade with Bunbury—Eastern Railway Extension Bill: Report of Select Committee; adoption of—Charges against officers of Railway Department, at Fremantle—Industrial Schools Act, 1874, Amendment Bill: first reading—Railways Act Amendment Bill: in committee—Brands Act Amendment Bill: further considered in committee—Municipalities Act: in committee—Estimates, further consideration of, in committee—Adjournment.

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

PRAYERS,