

LEGISLATIVE COUNCIL,

Wednesday, 15th August, 1877.

Geraldton and Northampton Railway: Opening of—School House at Northampton—Court House and Police Quarters at Northampton—Medical Officer for Northampton—First Reading—Railway Act, 1873, Amendment Bill—Third Readings—Arrest of Absconding Debtors Act, Amendment Bill: in committee—Coastal and Intercolonial Steam Communication—Duty on Transfer of Land: Consideration of Governor's Message.

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

PRAYERS.

OPENING OF GERALDTON AND NORTHAMPTON RAILWAY.

MR. BURGESS, in accordance with notice, moved, That an humble address be presented to His Excellency, praying that he will take into consideration, and, if possible, make the necessary arrangements to open the Geraldton and Northampton Railway, for general traffic, as soon as it is completed to a spot on the line known as "Ridley's"—being about half-way to Northampton, and across the heavy and sandy portion of the present line of road. The hon. member said his object in bringing forward this resolution was to endeavor to induce the Government to grant what would prove a great boon to the district. He was informed by the contractor that there were some sixteen or seventeen miles of the line completed, and available for traffic. The railway had already been in the contractor's hands for something like two years, and it appeared it would take another year, if not more, before the whole of the line was completed. There was a great deal of work yet to be performed, and, for his own part, he doubted whether the whole would be finished within twelve months from date. It therefore appeared to him that it would be a pity to allow that portion of the line which had been completed, and which was ready for traffic, to remain idle, all that time, when it might be a source of convenience to the settlers and a source of profit to the Government. The portion of the line which was now ready for traffic passed over the heaviest part of the road between Geraldton and Northampton, which made carting so

expensive. It was not too much to say that the prosperity of the district depended in a great measure upon the opening of the line: the mining business was almost at a standstill just now, in consequence of the uncertainty that prevailed as to when any portion of the line would be opened for the conveyance of ore to the port of Geraldton. He was sure the traffic on the line would be such as to warrant the Government in coming to some terms with the contractor.

MR. BROWN seconded the resolution, which he believed would receive the support of every hon. member in the House. The fourth condition of the contract empowered the Government to do what the hon. member for the North asked should be done, and he understood the contractors were quite prepared, and indeed desirous, to meet the Government in the matter, by performing the work with their own staff, allowing the Government a full royalty on the traffic. Several hundreds of tons of ore were now ready to be brought down by rail, which could not otherwise be brought down within reasonable time.

MR. SHENTON thought this was one of those matters which should be entirely left to the discretion of the Government, for it might happen that in interfering with the works at present a loophole might be left for the contractor hereafter to slip out of, before the Government entered into possession of the whole line. It did not appear to him that the fourth condition of the contract provided for the Government running trains for general traffic, before the completion of the line, but merely for their own convenience. He thought it would be better to leave the matter in the hands of the Government, to take what steps they might deem best, without any pressure from the House.

MR. STEERE was of the same opinion. The fourth condition only empowered the Government to open the line for certain purposes, prior to its being opened for general traffic; but the resolution before the House proposed that the line should be rendered available for general traffic. It was the duty of the Government to see that nothing was done likely to vitiate the contract, and they should be very careful what they did in the matter.

THE ACTING COLONIAL SECRETARY (Hon. A. O'Grady Lefroy) said it was not alone the district in which the railway was constructed which should receive the consideration, but the general public. The interests of the latter should not be jeopardised for the convenience of the former; and in a matter like this, involving such a large expenditure of public money, it was incumbent upon the Government to exercise every caution and care. He thought it would be inadvisable to adopt the resolution before the House, and much better to leave the matter in the hands of the hon. member for the district (Mr. Brown) and of the Government.

MR. CROWTHER was of the same opinion. The hon. member Mr. Brown had been in communication with the settlers of the district, and had asked to be supplied by them with some data regarding the probable amount of traffic which they would contribute, and other information which the Government would require before they would ever think of opening the line for general traffic. He did not know whether the hon. member had received the information he had sought; if he had not, it would appear that those most interested in the matter did not seem to be very anxious about the line being opened. If they would not go to the trouble to furnish their representative—who manifested so lively an interest in their welfare—with the information he required in order to strengthen his case, he (Mr. Crowther) would be inclined to leave them out in the cold,—although, possibly, no one would suffer thereby more than himself. He thought it advisable that the Government should act very cautiously in the matter; for the impression on the mind of the contractor was, that once the line, or any portion of it, were opened for general traffic, it would be out of his control as soon as a certain amount of traffic had passed over it.

Motion negatived.

SCHOOL HOUSE AT NORTHAMPTON.

IN COMMITTEE.

MR. BROWN moved, That in the event of the Government deeming it desirable to erect a School House at Northampton during the year 1878, the

Government be authorised to expend such sum as may be necessary for that purpose. The hon. member said this subject had been brought under the consideration of His Excellency the Governor when he visited Northampton a few months ago, and there could be no doubt that it would be necessary to have a new school building erected in the township before long. At least, a hundred children could be gathered together to attend a school situated in a central position, if the building afforded accommodation for such a number. The present school house was altogether inadequate to meet the requirements of the district, and for that very reason the compulsory clause was allowed to remain in abeyance. The district was a rising one, and he looked forward to the day when its population would number 20,000 or 30,000. His object in wording the resolution as he had done was that, in the event of the Central Board of Education seeing the necessity of providing increased school accommodation in the district, the Government should be placed in a position to proceed with the work at once.

MR. STEERE said his objection to this, and the other resolutions standing in the hon. member's name, was that they were so vague. The House was not placed in possession of any information as to the probable cost of the school house, or of the other buildings referred to in the other resolutions of which the hon. member had given notice. He thought the least the hon. member could do would be to mention some approximate amount which should not be exceeded. Another objection he had to the resolution was—and he hoped the hon. member would enlighten him on the point—where was the money to come from? Perhaps the hon. member would suggest some means for increasing taxation so as to provide the necessary funds to carry out these works.

MR. BROWN said he could not say what the school house would cost, but he thought they might safely leave the matter in the hands of the Central Board, who, no doubt, would judiciously guard any sum of money placed in their hands for the purpose. As to where the money was to come from, that was a question that might be asked in con-

nection with any proposed work. He hoped, however, that some portion of it would come out of the general revenue, and that they would find the revenue for 1878 as elastic as in past years, and, after providing for all necessary expenditure, leave a balance to the good.

MR. BURGESS supported the resolution. There was no public building at Northampton at all—no school house, no court house, and no police station; and he thought the district was entitled to its share of the revenue. The rent they were now paying for the building which served as a school house would provide the interest on the money expended in the erection of a suitable building.

MR. RANDELL said he felt inclined to support the resolution, because he was in favor of the erection of schools wherever there were children to attend them. At the same time he would have been glad if some specific sum had been mentioned as likely to cover the cost of the proposed building.

Resolution adopted.

COURT HOUSE AND POLICE QUARTERS AT NORTHAMPTON.

IN COMMITTEE.

MR. BROWN moved, That in the event of the Government deeming it desirable to erect a Court House and Police Quarters at Northampton, during the year 1878, the Government be authorised to expend such sum as may be necessary for that purpose: and also for a Post Office and Telegraph Station. The hon. member said the Government had a vote unexpended for the construction of a telegraph station, and, he believed, also for a post office. As to the court house, the necessity for such a building was daily becoming more apparent, and it was just a question for the House whether it would vote the money for 1878, or 1879, or 1880—the necessity of such a building must sooner or later force itself upon the intention of the authorities. This, also, was a subject which had been brought under the notice of Governor Robinson, when His Excellency recently visited the district.

THE ACTING COLONIAL SECRETARY (Hon. A. O'Grady Lefroy): With regard to the telegraph station, which I

suppose would also be available for a post office, I presume that the cost of that building is provided for in the vote for the construction of the proposed telegraph line between Geraldton and Northampton.

MR. STEERE said the House must really admire the diffidence and the modesty of the hon. members for the Victoria district. He acknowledged it was an important district, but he was sick of having it rammed down his throat that it was the most important district in the Colony. At the present time it certainly was not so; its trade and revenue were nothing like that of the Eastern districts. He thought Champion Bay had already had more than its fair share of public expenditure, and he would oppose this proposed additional vote.

MR. PADBURY thought the resolution ought to have gone a little farther than it did. The hon. gentleman was too modest by half. He only asked for a post office, a school house, a court house, and police quarters; he ought to have gone in for a church, a parsonage, and a parson, complete, while he was at it. He thought Champion Bay had had quite enough out of public funds: there were other districts whose wants should be attended to.

MR. BROWN admitted they had had a fair share of the crumbs that fell off the table of the House.

MR. RANDELL said they were not satisfied with crumbs; they had gone in for thick slices of the loaf, and had their full share of the fishes, too.

MR. HAMERSLEY regarded the resolution as utterly unreasonable. He did not think it consistent with their duties as representative members to scramble in this way for grants of money for the particular district which returned them to the House. They should have the interest of the whole Colony at heart. The members for the Victoria district had already been so liberally treated that they hardly knew where to stop with their requisitions for grants of money. As the hon. member for Swan said, they would next be asking for a church and a full-blown parson.

MR. CROWTHER: No, no.

MR. SHENTON understood that the lease of the buildings now used as police

quarters and court house at Northampton would not expire for some time yet.

MR. MARMION thought Fremantle had a much stronger claim to a vote for a court house and post office than Northampton.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) thought it was premature to consider the requirements of Northampton until the railway was completed. He had great faith in the district, himself. When he had the question of a post office and telegraph office under his consideration, his idea was to have them at the railway station. The district, really, was yet in its infancy.

MR. RANDELL said that, even at the risk of disturbing the slumbers of the hon. gentleman opposite (the Attorney General, who was apparently asleep) he would raise his voice to protest against the motion.

MR. BURGESS said this particular part of the Victoria district (Northampton) had not had much public money spent in it.

MR. SHENTON: What about the railway?

Motion negatived.

MEDICAL OFFICER AT NORTHAMPTON.

MR. BROWN moved, That in the event of the Government deeming it desirable to appoint a Medical Officer at Northampton, during the year 1878, the Government be authorised to expend such an amount as may be necessary for the salary of such officer. In support of the motion the hon. member pointed out that at present there was only one duly qualified medical man in the whole district, the Irwin, Greenough, Geraldton, and Northampton, and he was stationed at Geraldton, in charge of the colonial hospital. Northampton, with a population of between 500 and 1,000, was thirty-six miles distant, and, frequently, when the services of the medical officer were required he was unable to leave his duties at Geraldton to attend. It was the same with other portions of the district. It might be a question whether it was a wise practice for the Government to provide medical officers for the various districts, but the principle was already recognised, and there could be no doubt that one medical officer was quite in-

sufficient to meet the requirements of such an extensive area of country as that occupied by the Victoria district.

MR. PADBURY said he fully recognised the necessity of providing medical assistance where there was a population in need of such aid. The inhabitants of his own neighborhood had often asked him to do something towards getting a medical officer for that district, but he had always told them that before he would do so they must be prepared themselves to put their hands in their pockets and guarantee a medical man a certain income—say half the amount of his salary. If the same thing were done at Northampton, the inhabitants might then, with some grace, come forward to seek assistance out of public funds. There were cases of equal necessity in various parts of the Colony, and he did not see what particular claim Northampton had upon the House.

Motion negatived.

FIRST READING.

The Police Ordinance, 1861, Amendment Bill, was read a first time.

RAILWAY ACT, 1873, AMENDMENT BILL.

THE ATTORNEY GENERAL (Hon. H. H. Hocking), in moving the second reading of a Bill to amend "The Railways Act, 1873," said the Act in question provided that no railway shall be opened for public traffic until the Commissioner of Crown Lands had certified, by notice to that effect in the *Government Gazette* that such railway might safely be used for such traffic. When that Act was passed, the Commissioner of Crown Lands was also in charge of the Works Department, but, as hon. members were aware, another officer had now been appointed in that capacity; and the object of the present Bill was to appoint the Director of Public Works—or some other officer appointed in that behalf by the Governor—the proper person to certify as aforesaid, in lieu of the Commissioner of Crown Lands.

Bill read a second time.

IN COMMITTEE.

Clause 1.—"Section twelve of 'The Railways Act, 1873 is hereby amended by inserting the words Director of

Public Works, or other officer appointed in that behalf by the Governor," in lieu of the words Commissioner of Crown Lands':

Agreed to.

Title agreed to.

Preamble agreed to.

Bill reported.

ELEMENTARY EDUCATION ACT— AMENDMENT BILL.

On the motion for the third reading of this Bill being read,

MR. STEERE asked the Attorney General if he was still of opinion that it was not necessary to make some provision for regulating the procedure at the election of school-boards.

THE ATTORNEY GENERAL (Hon. H. H. Hocking) said he remained of opinion that the system of voting at school board elections should be the same as at parliamentary elections.

The Bill was then read a third time.

ARREST OF ABSCONDING DEBTORS' ACT, AMENDMENT BILL.

IN COMMITTEE.

Clause 1.—"If any professing creditor shall, by affidavit of himself or any other credible person, satisfy any Justice of the Peace in the said Colony that any person is indebted to such creditor in any sum not less than Five pounds; or if any duly authorised person shall by affidavit satisfy any such Justice that any person is under an engagement to remain in the Colony for any agreed term, or otherwise to pay any sum of money not less than Five pounds on his leaving the Colony prior to the expiration of such term; or if any duly authorised person shall by affidavit satisfy any such Justice that he has a good cause of action against any person to an amount not less than Five pounds; and if in either of such cases it be further shown to the satisfaction of such Justice as aforesaid that there is reasonable ground for believing that the person so indebted or under engagement or liability as aforesaid is about to quit the Colony without paying his said debt or the sum of money he is under engagement to pay on leaving the Colony, or discharging his liability as aforesaid, it

shall be lawful for such Justice of the Peace, by a Warrant to be signed and sealed by him, to direct any constable to apprehend such person so about to quit the Colony, and detain him in custody."

MR. BURT said he did not see any necessity for a debtor to be arrested and detained in custody, unless he was actually at the seaport whence he purposed taking his departure. He would therefore move that the words "and detain him in custody," at the end of the clause be struck out, and that the words "provided that no such warrant shall be executed except at a seaport of the Colony," be inserted in lieu thereof.

Agreed to.

MR. BROWN asked if it was proposed to limit the execution of the warrant to declared seaports. A dishonest man, desirous of evading his creditors, might take ship from the mouth of the Murray, for instance.

MR. BURT thought that, as a matter of fact, no vessel was likely to leave the Colony from the mouth of the Murray River.

MR. BROWN: Pearling boats frequently go from the North-west Coast to Singapore, thus affording another means for the escape of an absconding debtor.

MR. BURT: It is impossible to provide for every contingency. I do not propose to further amend the section.

Clause as amended, put and passed.

Clause 2.—"Upon the arrest of any such person, under such warrant, he shall be brought as soon as may be before a Justice of the Peace, who shall proceed to hear and inquire into the case; and it shall be lawful for such Justice to take and receive evidence upon affidavit upon any such inquiry; and if it shall appear to such Justice that such person so arrested is indebted as aforesaid, or is under an engagement or any liability as aforesaid, and that he is about to quit the Colony without paying his said debt or the sum of money as aforesaid or discharging his said liability, it shall be lawful for the said Justice to commit the said debtor or other person as aforesaid to prison, there to be kept in default of payment of his said debt or the sum of money as aforesaid or discharging his said liability, for a period not exceeding one month,

unless and until he shall sooner give security by bond with at least one sufficient surety for double the amount claimed, and conditioned for the payment of any sum which may be recovered against him in respect of the alleged debt or liability as aforesaid, or, in the case of a person under engagement as aforesaid, that he will not leave the Colony without first paying any sum of money which he may have contracted to pay on his leaving the Colony."

MR. BURT: I stated last year when this clause was before the House that I entertained an objection to putting a man in prison under these circumstances, but I did not then see very well how it was to be avoided. In pursuance, however, of a suggestion of the hon. member for Fremantle (Mr. Marmion), I now propose to amend the clause by providing that an arrest shall only take place when the debtor is actually on board a vessel about to proceed to sea. As soon as he sets his foot on shore, he will have to be liberated. To that end, I therefore move, as an amendment, That all the words after "Justice" in the tenth line, and before the word "month" in the thirteenth line, be struck out, and that the words "by warrant under his hand and seal to direct any constable to apprehend such debtor or other person as often as he may be found in any vessel about to proceed to sea, in default of payment of his said debt, or the sum of money as aforesaid, or discharging his said liability, or," be inserted in lieu thereof.

Agreed to.

MR. BURT further moved, That the words "provided always, that any person arrested as lastly mentioned shall be forthwith brought ashore and liberated."

Agreed to.

Clause, as amended, put and passed.

Clause 3.—"All necessary and proper proceedings for the final determination or recovery of any claim or matter in respect of which any person shall be arrested under this Act shall be taken and completed with reasonable diligence; in default whereof any person so arrested may apply to the Chief Justice of the Supreme Court, for a rule to show cause why he should not be released; and upon the hearing of such rule it shall be competent for such Chief Justice to dis-

charge such person or to remand him to custody."

MR. BURT, with a view to render this clause consistent with the preceding sections, as amended, moved, That all the words after the word "any," in the second line, be struck out, and the words "such last mentioned warrant has issued as aforesaid, shall be taken and completed with reasonable diligence; in default whereof any person against whom any such warrant has issued may apply to any two Justices to quash the said warrant, and such Justices are hereby empowered, in case it shall appear to them that the said proceedings have not been taken or completed with such diligence as aforesaid, to quash the said warrant" be inserted in lieu thereof.

Amendment agreed to.

Clause, as amended, put and passed.

Clause 4.—"The Act of the Legislative Council, No. 27, of 1871, is hereby repealed."

Agreed to.

MR. BURT pointed out that a man might, under the provisions of the Bill, as amended, be arrested over and over again when on board a vessel leaving the Colony, which could hardly be considered desirable if there was no likelihood of his ever having the means to pay his debt. He therefore proposed to empower such person to go before the Chief Justice, and, upon satisfying the Chief Justice that he had not the means wherewith to pay the debt in respect of which the warrant against him had been issued, it would be competent for the Chief Justice to quash the warrant, or, in other words, to "whitewash" him. With a view to carry out this object, he would now move the following new clause: "At any time after the expiration of three months from the issuing of any such last mentioned warrant as aforesaid, it shall be lawful for the person against whom such warrant has issued to apply to the Chief Justice to quash the same, and thereupon it shall be lawful for the Chief Justice, on being satisfied that such person has no means wherewith to pay the debt or debts in respect of which any such warrant has issued, to quash the said warrant, and also any other warrant that may have been issued against such person, pursuant to the provisions of this Act, upon

such terms and conditions as to him may seem fit; and after any such warrant or warrants have been quashed by the Chief Justice under the provisions of this section, no fresh warrant shall issue against such person under the provisions of this Act for a period of six calendar months."

Clause agreed to, and ordered to stand part of the Bill.

Preamble agreed to.

Title agreed to.

Bill reported.

THIRD READING.

The Telegraph Messages Act, 1874, Amendment Bill, was read a third time and passed.

COASTAL AND INTERCOLONIAL STEAM COMMUNICATION.

MR. STEERE moved, That the House should then go into committee to consider the following message from His Excellency the Governor:—

"The Governor forwards to the honorable the Legislative Council communications which have been received from Messrs. James Lilly & Co., with reference to placing a second steamer on the coast, with a view to establishing through monthly communication between Champion Bay and Melbourne. Messrs. Lilly & Co. are not yet in a position to put forward a definite proposal. They anticipate, however, that a subsidy of £6,000 would enable them to undertake the service, and will communicate in that sense with their partners in Melbourne on learning that the Government would be inclined to subsidize such a service for a term of three years. The Governor is in favor of the scheme, which by dispensing with the overland mail would cost only £1,000 a year more than existing arrangements, and if your honorable House should be prepared to provide the larger subsidy as from the 1st January next, he will endeavor to push forward the negotiations with Messrs. Lilly & Co., and to complete them as far as possible before he leaves."

IN COMMITTEE.

MR. STEERE said he was sorry he could not regard the scheme so favorably as His Excellency appeared to do, and

he should much regret to see the proposal adopted. They were told that if they accepted the offer, made in a semi-official way, by Messrs. Lilly & Co., it would only cost the Colony an extra £1,000 a year, beyond what it was paying for the present service, if they dispensed with the overland mail. He could not agree with that statement at all, for, in his opinion, they could not do without the overland mail. The mails now on the road between here and Albany were altogether too heavy to be carried on horseback, and they would have to be forwarded by a vehicle, as at present. Formerly, as hon. members were aware, these mails were conveyed by the mounted police from station to station, but this could not be done now. Moreover, the House had already resolved to reduce the police force, and the comparatively small number of troopers which would be available in future would render it impracticable for them to perform such extraneous services as the conveyance of mails. Apart from this, great inconvenience and delay would be occasioned by the discontinuance of the overland mail. According to the present time table of the P. & O. Company's steamers, the English mails for this Colony—were the scheme before the House adopted, and the overland mail abolished—would be detained at Albany at least four days; and he was assured that, according to the time table for next year, this delay would be increased to five or six days. What would the colonists say then? There would be the same feeling of dissatisfaction as there existed when the *Georgette* first began to run on the coast and the overland mail was discontinued. Public feeling ran so high, that the Government soon had to resume the overland conveyance, and at an increased cost. The same thing would happen again, were they to adopt the proposal before the House. Another reason why he objected to the scheme was that the southern ports of the Colony would derive little or no advantage from it, for the steamers being fettered with the mails could make no stay at these ports for the purposes of trade. One of the main objects of granting the subsidy to a coastal steamer was to facilitate trade intercourse between the various ports along the coast, with-

out the steamer being hampered with the mails. He regarded the resolution proposed the other evening by the hon. member for Greenough, and adopted by the House—with respect to the steamer making a monthly trip to Adelaide, the English mail being carried overland—as much more suitable and satisfactory than the project referred to in His Excellency's message. He thought that if this monthly service were open to competition, they would have it performed at a cost which would enable them to continue the overland mail without increasing the present subsidy of £4,000. After all, the House could scarcely regard the proposal of Messrs. Lilly & Co., as a serious or definite proposal. There was no certainty about it. It would be anything but business-like that the Colony should bind itself to them, or any other firm. Public tenders should be invited in the neighboring colonies for the performance of the service. For the reasons he had given, he would move, as an amendment upon the proposition embodied in His Excellency's message, "That in the opinion of the Council the resolution which was passed on the 30th of July, with reference to steam communication between Champion Bay and Adelaide, calling at the intermediate ports in this Colony, would, if carried out in accordance with the wishes of this House, satisfy the present requirements of the Colony, and would be much more economical than the proposal contained in Mr. Lilly's letter of August 2nd, which has been forwarded to the Council with a message from the Governor recommending the proposal contained therein." Before sitting down, he would like to ask the Acting Colonial Secretary whether Mr. Lilly's proposal had been laid before the Postmaster General? He thought a report from that officer would be of great assistance to the House in arriving at a determination upon this subject.

MR. BURGESS, though not opposed to the extension of steam communication, was decidedly opposed to the scheme submitted by Messrs. Lilly & Co. He did not think the Colony could afford to expend £6,000 for such a service. The delaying of the English Mail at Albany was a fatal objection to the scheme, and it would be seen that the overland mail

would have to be resumed and continued. If there were any funds available for the extension of steam communication by sea, they should be expended in securing a service to connect our northern ports with the Straits Settlements.

THE ACTING COLONIAL SECRETARY (Hon. A. O'Grady Lefroy), in reply to the hon. member for Wellington, said the proposal contained in Mr. Lilly's letter had been submitted to the Postmaster General, who did not anticipate that much inconvenience would be felt by the delaying of the English Mail at Albany for a few days, inasmuch as ample time would be afforded merchants and others to reply to their letters before the departure of the outgoing mail. But this was not a mere question of mail conveyance; it was one of much wider significance. It was a question closely affecting the general prosperity of the Colony, by establishing closer relations between ourselves and our neighbors, and thereby developing our trade and commerce. It was proposed by Mr. Lilly to devote two steamers to the service, so as to meet both the homeward and outward P. & O. Company's boats, for the convenience of passengers to and from the Colony. No doubt there would be a delay of a few days at Albany, so far as the English mail was concerned; but the question was, whether the inconvenience which this delay might occasion counterbalanced the many advantages and the great benefits which the Colony would derive from the establishment of direct monthly steam communication with Melbourne.

MR. PADBURY would support the amendment of the hon. member for Wellington. If Messrs. Lilly and Co. chose to run half-a-dozen steamers let them do so by all means; he wished them well, and would be glad to find them meeting with every possible success. But he thought they were already paying enough subsidy, nor did he see what great advantages the Colony would derive by the steamer going to Adelaide or Melbourne. There was monthly communication already between this Colony and those ports. As he had said on a former occasion he would far sooner give a subsidy for a service to the North-West Settlements of this

Colony and to the Straits Settlements, which would be productive of much greater benefit to the Colony. No doubt the proposed scheme would answer Messrs. Lilly and Co. very well, for it would bring them more traffic, which no doubt was the object they had in view. It had been said they would not get any more steamers from the other colonies, if they allowed the *Rob Roy* to go away; but there were other parts of the world where steamers were obtainable besides the "other colonies." He would not increase the present subsidy by a penny, for such a scheme as was here proposed, for he considered the owners of the *Rob Roy* were already very well paid.

The amendment of the hon. member for Wellington was carried.

MR. STEERE moved, That the same be presented by Mr. Speaker to His Excellency the Governor.

Agreed to.

TRANSFER DUTY ON LAND.

MR. BURT moved, That the House do then take into consideration the following message from His Excellency the Governor:—

"With reference to the Colonial Secretary's reply to Mr. Burt's question of the 30th ultimo, the Governor begs leave to communicate to Your Honorable House the reasons which induced him to withhold his assent from the Bill passed towards the close of the last session, entitled 'An Act to enforce the Payment of Duty on the Transfer of Land.' Such a measure would yield at present but a very trifling revenue, while it would give a check to the popularity of the Torrens system of transfer and registration, by depriving it of one of the attractions which it now possesses over the old system. The Bill was not called for in the interests of the general public. It would be of no benefit to any one save that branch of the legal profession which prefers the old system of conveyancing to the simple and inexpensive system provided by the Torrens Act; and lastly, the manner of its introduction was opposed to those sound principles of legislation which make the Government responsible for bringing forward the ways and means. The Transfer Duty under the old Act amounted last year to

only £182 16s. 5d. The Governor considers that it would be better to abolish the duty altogether than to levy it under the new Act; but that a preferable course would be to leave matters as they are until a tax on real property becomes necessary for purposes of revenue, and then to impose it in a form which would yield some substantial return."

MR. BURT said he had given notice of his intention to ask the House to take into consideration His Excellency's message as above, because he considered that he himself, and the House indirectly through him, had been treated in a sort of shuttlecock way by the Government on this question. It would be in the recollection of the House that, last session, he introduced a measure to do away altogether with the duty leviable on the transfer of land. The Attorney General proposed, as an amendment, that the Bill should be read that day six months, but, on division, the amendment was negatived. On the preamble of the Bill being read in committee a discussion arose on the principle of the Bill, and the feeling of the House was clearly in favor of imposing a duty both under the Torrens system and under the common law system of conveyancing, rather than abolishing the duty now raised only under the latter system. In accordance with this wish of the House, he had introduced another Bill, providing the means for levying a transfer duty under the two systems. That Bill was passed unanimously, he might say; there was no division upon it whatever. Subsequent to the prorogation of the Council a proclamation appeared in the *Government Gazette* to the effect that His Excellency withheld his assent to the Bill until he had communicated with the House. After the House assembled this session, several days elapsed without any communication being made to the House on the subject, and it appeared to him that the matter had slipped the attention of the Government, or that it was not their intention to take any further steps in the matter. Therefore, on the 30th July, he asked the Colonial Secretary if the Government intended to make any communication to the House on the subject, and the reply was that His Excellency proposed doing so. Nearly a

fortnight, however, elapsed before this communication was made, and the result was that, owing to this delay, he was prevented at this late period of the session from introducing a Bill dealing with the subject in question. It would be seen, from the Governor's message, that His Excellency considers it would be better to abolish the duty altogether than to levy it under the Torrens system; and had this communication been made to the House at an earlier date, they would have been in a position to introduce such a Bill. When the question was under discussion last session he pointed out as clearly as he could in what cases a person was unable to take advantage of the new system—and what he did say would be found in the first book of chronicles (*Hansard*)—and that one system of transfer was hampered with a penalty in the shape of a duty, whereas the other was not so. He would not have objected so much to this anomaly, and, he might add, injustice, had he not been aware of those instances in which persons, owing to circumstances over which they had no control, could not avail themselves of the provisions of the new system. He thought it was very unfair that such persons should have to bear the penalty of a duty, simply because they were not in a position to bring their property under the operation of the new Act. His Excellency in his message, said "Such a measure,"—alluding to the Bill of last session to enforce the payment of duty—"would yield at present but a very trifling revenue, while it would give a check to the popularity of the Torrens system of transfer and registration, by depriving it of one of the attractions which it now possesses over the old system." He (Mr. Burt) submitted to the House that the amount of revenue it would yield was out of the question altogether. It was not a measure to *impose* a duty on the transfer of land—that was the law of the land already; it was merely to enforce the payment of a duty which for years past had been legalised. And when the Torrens Act was introduced, it was never intended that land transferred under its provisions should be exempt from duty. He believed that at first an effort was made to collect a duty under that system,

but it was found to be impossible, inasmuch as no means of doing so had been provided. And the Bill which he had introduced last session sought to remedy this defect, and to enforce the payment of duty under both systems. The duty on the transfer of land was first imposed here so late back as the 4th and 5th years of Her Majesty's reign, and no objection had ever been raised to the principle of the thing. As he had already said, when the Torrens system was first adopted here it was never intended that land brought under its operation should be exempt from duty, so that what His Excellency conceived to be one of the attractions which it possessed was not fairly nor legitimately attached to it. It had become possessed of these attractions by a mere side-wind—simply because no means had been provided to carry out the intention of its framers and supporters to levy a transfer duty under it, in the same way as under the old system. It was simply by evading the law of the land that it had gained the attraction which it seemed to possess in His Excellency's eye. That it was unjust that a duty should be levied under one system and not under the other might be illustrated very simply thus: Supposing the Government were to set up a store in Perth, at which they retailed sugar at 2d. a lb., while a local storekeeper next door sold it at 3d., what would be said of the Government if they said that any customer who chose to go to the local storekeeper instead of coming to their own store, would have to pay a penny a pound duty on his sugar, which would then cost him 4d. If a man did not choose to take his sugar at 2d. why not let him have his way, without inflicting a penalty upon him? That was just what the present law did with regard to the transfer of land. It did not allow a man a choice. In effect, it said, "If you don't come under this new system, we shall fine you one per cent."—that being the amount of the transfer duty levied under the old system. His Excellency said "the Bill was not called for in the interests of the general public." He did not think the House would agree with that—that a Bill which sought to provide means for the collection of a duty imposed by law (but of which the revenue was now deprived

simply because of the non-existence of such means "was not called for in the interests of the general public." His Excellency also said the measure "would be of no benefit to any one save that branch or the legal profession which prefers the old system of conveyancing to the simple and inexpensive system provided by the Torrens Act." He (Mr. Burt) did not stand up there in order to censure His Excellency but to maintain some little *esprit de corps* in the House. He did not think that any member of that House, when not in accord with His Excellency, should be afraid to say so; he conceived it to be their duty to respectfully submit their views and opinions to His Excellency. And he would ask the House to agree with him that there were not sufficient reasons for saying, as His Excellency did, that a branch of the legal profession preferred the old system of conveyancing to the new. There were many hon. members present who had brought their land under the operation of the Torrens Act through the intervention of the legal profession, and he did not think one of them could say that any member of that profession had shown any preference, either one way or the other. He ventured to say, the Commissioner of Titles himself would readily admit the valuable assistance he received every day from the legal profession, through whom a large majority of the applications to bring land under the operation of the new Act came. For his own part, he had always stated that he considered the Torrens system of transfer a simple and inexpensive system; but he did think that, so far as this Colony was concerned, it was rather in advance of the times, inasmuch as the revenue derived from it bore no proportion whatever to the expenditure necessary for its maintenance. From a business point of view, it made little difference to the legal profession under which system their clients might choose to transfer their land. He was aware that, in speaking of such subjects as this, it was a favorite argument with some people to attribute self-interest to one side or the other; but he would ask hon. members if they thought he was at all affected by the measure which formed the subject of His Excellency's message. He had, first of all,

sought to place the two systems of conveyancing on a level by removing the duty off both. The House said, "No; let us rather levy a duty on the two." To this end, he had introduced a Bill having that object in view—introduced it in the interest of those people who could not avail themselves of the provisions of the system which was free from duty. His Excellency further said "the manner of its introduction" (the Bill in question) "was opposed to those sound principles of legislation which make the Government responsible for bringing forward the ways and means." He was a long time before he could compass the meaning of that expression; but it had been suggested to him that His Excellency meant to say that as a private member he, nor any other member, had nothing to do with a Bill in which a money question was involved. He thought His Excellency must have forgotten the nature of the measure before him, which was not intended to impose a duty, but to provide means for enforcing a duty which was already the law of the land. How the fact of such a Bill being introduced by a private member disturbed "those sound principles of legislation which made the Government responsible for bringing forward the ways and means," he could not say. His Excellency informed the House in his message that "the duty under the old Act amounted last year to only £182 16s. 5d." Perhaps next year it might amount to nothing. But what did that show? Did it not show the necessity of imposing a duty also under the new Act, so as to assist in meeting the comparatively heavy expense of maintaining the new system, which cost the country about £1000 per annum, whereas the revenue derived from its operation was comparatively trifling. He thought the House would do well to provide some other ways and means to meet the deficiency, and he would like to know what more legitimate way of doing this there could be than by enforcing the payment of a duty which had been established for years past, and which it was intended to perpetuate under the Torrens system? As he had said before, he had no intention whatever of censuring His Excellency in any way—it would be absurd on his part to

do so; but he did not think it wise for any member to remain passively silent when he was misconstrued, and when wrong conclusions were placed before the House, on what he considered to be an important matter. In asking the House to agree to the following resolution, he did not think he asked them to agree to too much, seeing that they were at present debarred from introducing a Bill dealing with the subject of transfer duty this session. The resolution he would ask the Council to affirm was as follows: "That this House, after a due consideration of His Excellency's message in reference to a Bill passed last session entitled *An Act to enforce the payment of duty on the transfer of land*, regrets that His Excellency did not communicate his views on the matter at an earlier date in the session: That it considers the amount of revenue which would accrue from the measure beside the question, and cannot concur with His Excellency in saying that the legal profession prefers the old system of conveyancing to that provided by the *Torrens Act*: That the House fails to recognize that the manner of the introduction of the Bill was opposed to those sound principles of legislation which make the Government responsible for bringing forward the ways and means: That the Bill in question, merely seeking, as it did, to enforce the payment of a duty already imposed on the transfer of land, was not open to the objection of being uncalled for in the interests of the public; and this House is opinion, that so long as such a duty is imposed, means for enforcing its payment should be provided."

The resolution was adopted without discussion, and ordered to be presented to His Excellency by Mr. Speaker.

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

LEGISLATIVE COUNCIL,

Thursday, 16th August, 1877.

Messages from the Governor: Assent to Bills: *Transfer Duty on Land—Ballot Act, 1877*: debate on Governor's Message—*Appropriation Bill*: first reading—*Steam communication between this Colony, the Straits Settlements, and India—Paris Universal Exhibition—Western Australian Agricultural Association—Third readings.*

THE SPEAKER took the Chair at noon.

PRAYERS.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.

THE SPEAKER reported the receipt of the following message from His Excellency the Governor:—

"The Governor informs Your Honorable House that he has this day assented, in Her Majesty's name, to the undermentioned Bills passed by the Legislative Council during the present session of the Legislature:—

"*An Act to further amend 'The Elementary Education Act, 1871.'*"

"*An Act to amend and extend 'The Telegraphic Messages Act, 1874.'*"

"*An Act to amend 'The Scab-in-Sheep Ordinance of 1866.'*"

"*An Act to vest in certain Officers of Customs in this Colony, certain Powers which by 'The Merchant Shipping Act, 1871,' are in the United Kingdom vested in the Board of Trade.'*"

"*An Act to amend the Law relating to Procedure at the Election of Members to serve in the Legislative Council.'*"

Government House, Perth, 16th August, 1877."

MR. STEERE moved, That that portion of the Message assenting to the *Ballot Act* be now taken into consideration. He did not think His Excellency was empowered to give his assent to such a measure. It was an Act that affected the constitution of the Colony, and the Imperial Act under which the constitution is founded states expressly that any measure dealing with the manner of electing members to serve in the Legislative Council, or providing for the increase of members, shall be reserved for the signification of Her Majesty's pleasure thereon. He had recently had some conversation with His Excellency