

to dictate to the responsible head of a department like the Railway Department. The House having voted the money asked for, and offered certain suggestions, had done all that could be expected of it, and the responsibility now rested on other shoulders.

MR. BROWN assumed that the engine at Champion Bay was not likely to be required there for some years to come, and the fact stared them in the face that here was an engine that cost the colony some thousands of pounds lying idle. If it could not be made use of upon any of the railway lines of the colony, it appeared to him the best thing they could do was to sell it.

MR. MARMION said undoubtedly it was a loss of money which this colony could ill afford, to have an expensive piece of machinery like this lying idle. Even if it cost £500 to remove it to Perth, he saw no reason why the expenditure should not be incurred, if the engine could be utilised on the Eastern Railway.

The motion to add £10,000 for rolling stock was then put and passed.

THE COLONIAL SECRETARY (Hon. M. Fraser) also moved that item "Passenger Station, Guildford, and Station Master's Quarters, £1,200," be added.

Agreed to, without comment.

THE CHAIRMAN OF COMMITTEES then reported that the committee had re-considered the Estimates, and had agreed to a further vote of £11,200 for the Eastern Railway.

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

THE COLONIAL SECRETARY (Hon. M. Fraser), in moving the second reading of this bill, said its object was merely to give authority to the officers of Customs to permit the landing of goods on any day, including Sundays. Hon. members might perhaps be inclined to offer some opposition to the bill on the score that it to a certain extent authorised Sunday trading; but he assured the House there was no intention on the part of the Government to offer any inducement to such trading. The bill was simply introduced for the convenience of the residents at the outports, where, since steam communication had been introduced on the

coast, it had been found necessary sometimes to provide facilities for the landing of cargo on Sundays. This, however, could not be done without the special authority of the Collector of Customs.

The motion for the second reading was then agreed to.

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

#### LEGISLATIVE COUNCIL,

*Friday, 1st August, 1884.*

Sand Patch at Princess Royal Harbor—Timber traffic on Second Section of Eastern Railway—"Votes and Proceedings" and "Hansard" for Mechanics' Institutes—Increase of Salary to Postmaster General—Appropriation Bill (Supplementary), 1884: first reading—Deeds of Grant Bill: first reading—Albany Mechanics' Institute Bill: second reading—Wines, Beer, and Spirit Sale Act, 1830, Amendment Bill: in committee—Bills of Exchange Bill: in committee—Message (No. 14): Despatch and papers showing result of negotiations between Crown Agents and Mr. Hordern—Message (No. 15): Appointment of Mr. Steere to a seat in the Executive Council—Message (No. 16): Confirming Standing Orders Nos. 41 and 42—Bank Holidays Bill: further considered in committee—Customs Ordinance, 1860, Amendment Bill: in committee—Adjournment.

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

PRAYERS.

#### ALBANY SAND PATCH.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, asked the Director of Public Works whether any report has been received from the Government Resident at Albany respecting the progress of the work for the reclamation of the Sand Patch at the head of Princess Royal Harbor; and what arrangements it was proposed to make for the completion of this undertaking. The reason he asked the question was because in former years a report of this kind had been laid before them. When he was at Albany the other day he found that the

work done had been well done, but that unless it was continuously attended to the labor bestowed upon it will be wasted and the work spoiled.

**THE DIRECTOR OF PUBLIC WORKS** (Mr. C. T. Mason) said he had been in communication with the Government Resident as to the work of reclaiming the Sand Patch, and that he had received a telegram from Mr. Loftie stating that the vote of £600 appropriated last session would carry them through this year, and probably leave a surplus of about £130, and that possibly a further vote of £150 for 1885 would suffice to continue the work during that year. The Government proposed to place a sum on the Estimates to complete this very desirable work.

#### TIMBER TRAFFIC, EASTERN RAILWAY.

**MR. VENN** asked the Commissioner of Railways to please lay upon the table a return showing the timber traffic on the Chidlow's Well section of the Eastern Railway, from date of opening to 30th June last; such return to show the number of loads of timber and amounts receivable for the same.

**THE COMMISSIONER OF RAILWAYS** (Mr. C. T. Mason) laid the return on the table, and, in doing so, said the statement as to the receipts was rather a difficult one to prepare with preciseness, inasmuch as sawn timber and log timber were conveyed at different rates, and no distinct record had been kept; but he had struck what he considered a very fair average, and he was satisfied the return was as fairly accurate as any hon. member could wish.

#### "VOTES AND PROCEEDINGS" AND "HANSARD" FOR MECHANICS' INSTITUTES.

**MR. MARMION** asked the Colonial Secretary whether the resolution of a previous Council, passed August 6th, 1879, having reference to the gratuitous supply by the Government to every Mechanics' Institute or Public Reading Room in the colony of *Hansard*, "Votes and Proceedings" of the Council, and "Blue Book," has been carried into effect; and if not, why?

**THE COLONIAL SECRETARY** (Hon. M. Fraser) replied:—1. Direct instructions were given to the Government

Printer to issue all asked for in the above-mentioned resolution. 2. The Proceedings of the Legislative Council, and the annual volume of Statutes have been supplied; but the *Hansards* have not been so regularly, owing to the supply of bound volumes being very limited. 3. In future the supply of all shall be regular.

#### INCREASE OF SALARY FOR POSTMASTER GENERAL (MR. HELMICH).

**MR. CAREY**, in accordance with notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to direct that a sum of £100 be placed on the Estimates for 1885, as an increase to the salary of the Postmaster General (Mr. Helmich)." This officer, the hon. member said, had been in the public service of the colony since September, 1840, so that next month he will have completed 44 years service. He had presided over the Post Office Department since 1847, and looking at the increasing importance of the department and the great increase in the work of superintending it, he thought the House would agree with him that Mr. Helmich, as an old public servant, who had discharged his duties faithfully, unobtrusively, and efficiently, was well entitled to have his comparatively small salary increased. His claims had been brought before the House on several occasions previously, but he thought the House would no longer withhold from a meritorious officer like the Postmaster General such recognition of his services as was fair and just.

**MR. GRANT** said it gave him great pleasure indeed to think that this matter had been again brought before the House. Mr. Helmich was an exemplary public servant, and well deserved the proposed increase.

**MR. STEERE** was sure he might say there was no more painful duty to him than to oppose an increase in the salary of a deserving public officer, but in this case he really did not think there was any reason for increasing the salary of the officer in question. No one in the House had a greater respect for the officer himself than he had. He was perfectly well aware that he was a very old public servant, and a very good

public servant; but he was also of opinion that he was drawing a good salary, and one quite adequate for the Postmaster General of this colony at the present time. It must be remembered that it was only two years ago the salary of this officer was increased by £50. He had looked at the salaries paid to Postmasters General in the other colonies, and he found that they were not better paid, in proportion to other public officers, than the Postmaster General here was now paid.

THE COLONIAL SECRETARY (Hon. M. Fraser), while acknowledging the estimable character of the Postmaster General, and the admirable way in which he had conducted the affairs of his department, must remind the House that the claims of that officer were well considered by the committee appointed to deal with this question of salaries, and no recommendation was made by that committee for increasing the salary of the Postmaster General. For his own part he should like to see all our Government officers paid a higher rate than they had been paid in the past, or that they were receiving now; but, looking at the other pressing demands upon our revenue in various directions, and looking at the increased liabilities which the colony was about to incur, and the additions already sanctioned to the salaries of public officers, he regretted having to oppose this motion. Reference had already been made to the salaries paid to officers holding a similar position in the neighboring colonies, and he might refer the House to the salary paid to the Postmaster General in another colony, superior in population, superior in revenue, and superior in its resources to our own—a colony not infrequently referred to in that House, the colony of Natal, where the Postmaster General only received £50 more than the Postmaster General here, though the revenue was nearly treble ours. Under all the circumstances, he thought the present motion was inopportune—though no doubt made with the best intention—and, speaking on behalf of the Government, he was not at the present moment prepared to support the motion.

MR. VIENN said, notwithstanding what had fallen from the Colonial Secretary, he rose to support the address.

He thought it was an unfortunate omission that the Postmaster General's name was not included in the Supplementary Estimates together with the other officers, heads of departments, who received an increase of salary. He thought the increase now asked for was a fair one, and he hoped the motion would commend itself to the favorable consideration of the majority of hon. members.

MR. CROWTHER said, giving the Government credit for every good intention towards this officer, he should be glad if they were to arrive at a different decision than they had done with reference to this particular address. Although the comparison made between this colony and Natal might tell against the motion, still he thought the comparison was scarcely analogous, seeing that the Postmaster General here was also saddled with the superintendence of the Telegraph Department. During the last eleven years this officer had only received £100 increase to his salary, though the work of the department had enormously increased.

MR. GLYDE said he would like to say a few words in favor of this address. He thought the proposed increase was a just and fair recognition of the claims of an officer who had grown old in the service of the colony. The work of the department had grown, during the past twenty years, out of all proportion with the salary of the head of it, and he hoped the Government would see its way clear to agree to the address now before the House.

MR. BROWN said probably the salary now paid to the Postmaster General might be a sufficient salary for that position, generally speaking; but the Government themselves had approved of the special claims of certain officers being specially recognised, by giving those officers an increase of salary, personal to themselves. Viewed in that light there were probably no more special cases than that of the officer in question, having served the Government and the country for something like 44 years, during the greater portion of which he had been in charge of an important department of the public service. There were no two opinions as to his merits—they were all agreed on that point; and, seeing that they had already, in some instances,

given a special recognition of the personal claims of public officers, apart from the real value of the offices held by them, he could not conscientiously vote against this proposed increase. But he supported the proposal entirely upon that principle, and in doing so he did not mean to infer that the salary now attached to the office of Postmaster General was not a sufficient salary to be attached to that post.

MR. SHENTON thought the case of the present Postmaster General was an exceptional case. He had entered the service when a lad, and had grown grey in it, and, although the business of the department had increased enormously of late years, and the work and responsibility expanded in every direction, the head of the department received very little more pay now than he did many years ago. He looked upon this increase as a special recognition of Mr. Helmich's long services, and not as a permanent increase to be attached to the office.

The committee then divided upon the motion, when there appeared:—

|              |     |     |    |
|--------------|-----|-----|----|
| Ayes         | ... | ... | 10 |
| Noes         | ... | ... | 7  |
| Majority for | ... | ... | 3  |

AYES.  
Mr. Brown  
Mr. Crowther  
Mr. Glyde  
Mr. Grant  
Mr. Loton  
Mr. S. S. Parker  
Mr. Randell  
Mr. Shenton  
Mr. Venn  
Mr. Carey (Teller.)

NOES.  
Mr. Mason  
Mr. Burt  
Mr. Hamersley  
Mr. Marmion  
Mr. S. H. Parker  
Mr. Steere  
Hon. M. Fraser (Teller.)

The motion was therefore carried.

#### APPROPRIATION BILL (SUPPLEMENTARY), 1884.

THE COLONIAL SECRETARY (Hon. M. Fraser) moved the first reading of a Bill to provide for the Payment of certain additional and unforeseen Expenses in the year 1884, over and above the Estimates for that year.

Motion agreed to.

Bill read a first time.

#### DEEDS OF GRANT BILL.

THE COLONIAL SECRETARY (Hon. M. Fraser) moved the first reading of

a bill to simplify the procedure in amending Deeds of Grant which contain an erroneous description of the boundaries of the land contained therein.

Motion agreed to.

Bill read a first time.

#### ALBANY MECHANICS' INSTITUTE BILL.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest), in moving the second reading of this bill, said the object of the bill was made apparent by the preamble. It appeared that in the year 1869 a certain grant of land in the town of Albany was vested in certain trustees, for the purposes of a Mechanics' Institute, and that one of these trustees had long since died, that another had left the colony, and that the third was desirous of being relieved of his trusteeship. Doubts had arisen as to the power of the institute to appoint fresh trustees, and as to whether the land in question would be legally vested in them, if appointed. It had also been considered desirable to empower the trustees—subject to the approval of the Governor-in-Council—to mortgage the land and the buildings on it, in order to enable them to carry out certain improvements and alterations, and the object of the present bill was to enable these things to be done.

SIR T. COCKBURN-CAMPBELL said the Government had been so good as to undertake to pilot this bill through the House. To a certain extent it was a private bill, and, if the Government had not undertaken to do so, the parties interested would have had to pay what to them would have been a considerable fee; and he had to thank the Government for undertaking the task. The bill was based upon similar legislation elsewhere, and, if passed, and the trustees were able to raise money on the property, it was their intention to make considerable improvements to the building, which would make it of additional use and value to the inhabitants of the town. He hoped the bill would meet with no opposition in the House, as it was one which he thought deserved the support of hon. members.

The motion for the second reading was then agreed to.

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

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

Clause 1.—Incorporating the Bill with the principal Act:

Agreed to.

Clause 2.—Application for a compulsory transfer of a license:

MR. S. H. PARKER pointed out that under the clause as now worded a landlord whose tenant on termination of his lease refused to give up the license could not apply for an order compelling the tenant to transfer the license until the next licensing day. He understood the object of this clause was to provide a landlord with a remedy in the event of a tenant—whose license had not expired but whose tenancy had—refusing to transfer the license, and thus keeping the hotel closed, to the detriment of the landlord. But if a compulsory transfer could not be had until the next licensing day, it might be three months before that took place, as the licensing meetings were only held quarterly. These tenancies usually expired in June or December, and if a tenant going out in June refused to transfer his license, no proceedings could be taken to compel him to do so until the following September, when the next licensing day would be held. He thought if we were going to provide a remedy at all for this state of things, we ought to provide a more expeditious mode of obtaining the remedy than this. Why should not the tenant be empowered to go to the magistrate of the district, and obtain a temporary license, pending the holding of the quarterly licensing meeting, in the same way as when a licensee voluntarily transferred the license?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he was quite aware of the delay there must be in this case, but he could not see how they could very well avoid it, and for this reason: there was a regularly constituted body—the Licensing Bench for the district—who alone had the power to grant licenses under the Act or to refuse licenses; and this clause was only carrying out the principle of the existing law in that respect. He would remind the committee that this compulsory transfer of a license was rather strong legislation, and, to a

great extent, a landlord might be said to have the remedy in his own hands, by stipulating with his tenant when granting him a lease of the premises that in the event of the lease terminating during the currency of the license he (the tenant) shall be bound to transfer the license to the incoming tenant. This compulsory transfer was rather a strong-handed proceeding, and he thought it ought to be left to the discretionary judgment of the Licensing Bench, as in cases where the magistrate of the district was allowed to act alone, by granting a temporary transfer,—that was when both parties, the transferor and the transferee, voluntarily agreed to the transfer, and the magistrate merely endorsed the license, until the next licensing meeting of the Bench. In anything requiring the exercise of a discretionary power, the policy of the Act was to go before the Bench, and, although he could see there might be a case where a house might possibly be without a license for a certain time, yet the possibility of that hardship did not appear to him to be so great as to outweigh the desirability of preserving the Licensing Bench as the only constituted body who shall exercise this discretion. It was impossible to frame an Act that would operate so as to meet every possible case. He believed only one case of this kind had ever occurred in the colony. They were necessarily rare, and he ventured to submit that the present clause met the justice of the case.

MR. BURT admitted that these cases were rare, and, so far as he was aware, such a thing had only happened once in the colony as a tenant refusing to transfer a license when the lease expired; but inasmuch as the Government proposed to legislate in order to meet these rare cases, he thought the remedy provided ought to be an effectual one, and such as would place it out of the power of the outgoing tenant to act in this dog-in-the-manger way with his landlord. But the present bill took away with one hand that which it gave with the other. If a landlord had to wait until the next licensing day in order to get over an obstructive tenant, he might as well almost be without a remedy at all. If they allowed a magistrate to grant a temporary license when the tenant consented to a transfer, why should they deal more considerately with

a tenant acting in this dog-in-the-manger spirit? For his own part he saw no objection whatever, under the circumstances contemplated by this clause, in allowing a landlord to apply at once to the Resident or Police Magistrate of the district for his remedy.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the Licensing Bench could always adjourn for a month if they thought fit, and no doubt they would adjourn if any suggestion were made to them that they were likely to be wanted in a case of this description. Under the principal Act, where any discretion had to be exercised, that discretion was vested in the Licensing Bench, and he thought it would be unwise to depart from that principle here. These were the views which he himself entertained on the point. He had no desire whatever to lessen the power of Resident Magistrates, if the House wished to give them this discretionary power as well as the Bench; but he would again remind the committee that this was a case in which the landlord might protect himself, by inserting a covenant in the lease that in the event of the tenancy expiring during the currency of a license the tenant shall transfer the license to the new-comer. He thought they ought to give some consideration to the tenant as well as to the landlord, and in this bill they had endeavored to do justice between both parties.

MR. S. H. PARKER said the argument of the hon. and learned gentleman in charge of the bill would lead them almost to strike the clause out altogether. If these improvident landlords who neglected to protect themselves were not worthy of consideration, why should we pretend to give them any relief at all? He would point out to the committee that, even if a landlord had made such a covenant with his tenant, he could not compel the transfer if the tenant resisted, without bringing an action against him. If he did so, he might certainly recover damages; but, supposing the tenant were a bankrupt or a man of straw, what would be the good of the damages to him? He thought the more consistent course would be to give these landlords full relief or let the law remain as it is. Although these licenses were made out in the name of the tenant, they were

absolutely useless to him after his lease expired and he left the house. The license is given for the premises; it was the house and not the tenant that was licensed. As to the exercise of discretionary power, they already allowed a magistrate to grant a temporary license to a new tenant, where the transfer was voluntary, and he failed to see that any greater amount of discretion was required in the case where the transfer is compulsory.

MR. BROWN had hoped that the hon. member for Perth would have put forward some definite amendment, so that the committee might have had an opportunity of recording its opinion on this subject one way or the other. For his own part he was entirely in favor of the views expressed by the hon. member, and by the hon. member for the Williams. It appeared to him that the argument of the Government bench was an argument in support of a policy of non-intervention, although the object of the bill itself was to intervene in favor of the landlord. He did not find fault with their desire to afford relief to landlords in this matter, but he thought if they gave relief at all they ought to give full and immediate relief, and he thought the course suggested by the hon. member for Perth was a proper one in every way. The position at present was this: there was no amendment before the committee, and, if they struck out the clause, neither the views of the Government nor the views of the hon. members opposite would be carried out; and, under the circumstances, he thought it was desirable they should report progress.

MR. STEERE hoped the hon. member would not persist in having progress reported yet. They had made very little progress to report, so far. He thought the arguments of the hon. member for Perth and of the hon. member for Pinjarrah were such as were unanswerable, and that if this clause was required at all, it ought to be amended as indicated. If only one case of the kind had ever occurred in the colony, he had a doubt in his own mind as to whether it was necessary to legislate at all in this direction. But, if it was necessary, they ought to legislate in such a way as to provide a full remedy.

MR. MARMION, referring to the 36th

and 37th clauses of the principal Act, pointed out that no license could be removed from one house to another without the personal or written consent of the landlord of the house about to be vacated; and one of the objections that could be lawfully urged against the removal was that the lease under which the tenant occupied the house contained a covenant against removing the license to any other house.

**THE ATTORNEY GENERAL (Hon. A. P. Hensman):** Just so. That exactly supports the view I referred to, that a landlord has full power to covenant with a tenant, that on the termination of his lease, he shall, if required, transfer his license to the newcomer. However, so far as I am concerned, I shall be happy to add any proviso to the clause which the general sense of the committee may consider desirable. At the same time I would point out that we may throw the whole bill out of gear, if we accept these amendments hastily, and I think the better course would be to report progress, until the hon. member opposite is prepared with his amendment. I presume the hon. member will so shape his amendment as to harmonise with the other provisions of the bill.

**MR. BURT** thought the Attorney General had misapprehended the hon. member for Fremantle's reference to the principal Act. That provision of the Act disabling a tenant from obtaining a removal without the consent of the landlord operated to the detriment of the tenant certainly, but, at the same time, it afforded no remedy in any way for the landlord. If the landlord refused his consent the position of affairs would be this: they would have a tenant with a license that was useless to him, and a landlord with an unoccupied house for which he could not get a license, because the license already granted was in the hands of a man who would make no use of it. It seemed to him that the proposed amendment might be introduced now. If they amended this clause as proposed, and struck out the following four clauses they would arrive at what they desired. He had no wish, however, to hurry the House over these amendments. A bill hastily amended very often turned out to be an unintelligible bill,

and he was in no way opposed to the proposition to report progress.

**MR. BROWN** was very glad to hear the hon. member say so. The amendment was one that commended itself entirely to him, and he thought there could be very little or no objection to it. But he imagined there was no other part of the world where an amendment of this character would be accepted without previous notice having been given of it. He did not think it was quite fair to an hon. member in charge of a bill that he should be asked to accept an important amendment like this, of which he had never heard anything before, nor seen it, without notice being given. He was aware it was stated they were not making much progress, but there was no kind of legislation worse than hasty legislation, such as the House would be committing itself to if they were to proceed with this amendment that evening.

Progress was then reported, and leave given the committee to sit again.

#### BILLS OF EXCHANGE BILL.

The House then went into committee for the consideration of the Bill to codify the law relating to Bills of Exchange, Cheques, and Promissory Notes.

Clause 1—Short title; agreed to.

Clause 2—Commencement of Act:

It was resolved that the bill should come into operation on the 1st January, 1885.

Clause 3—interpretation of terms:

Agreed to.

Clause 4—definition of bill of exchange:

Agreed to.

Clause 5—“(1.) An inland bill is a “bill which is, or on the face of it “purports to be, (a) both drawn and payable within the colony of Western “Australia, or (b) drawn within the “colony upon some person resident therein. Any other bill is a foreign bill.”

“(2.) Unless the contrary appear on “the face of the bill the holder may treat “it as an inland bill.”

**MR. S. H. PARKER** said he had already given notice of his intention to move an amendment upon this clause, so as to make an inland bill a bill drawn and payable not only in this colony but also in any other of the Australian colonies,

including Tasmania and New Zealand, and also the Fiji islands. This was the law on the subject in Victoria, and he thought there were good grounds for it. There was no doubt it was a source of great convenience to the commercial community that a bill drawn or payable in any of the neighboring colonies should be regarded as an "inland bill" rather than a "foreign bill." In order to take proceedings upon a foreign bill various steps were necessary which did not apply to inland bills; for instance, if dishonored or not accepted on presentation, it had to be protested by a notary in order to preserve the recourse against the person liable. Therefore, in Victoria, they made all bills drawn or payable in any of these colonies inland bills, which could be sued upon without having resort to these technical proceedings. As they looked forward to the day as being not far distant when all these colonies shall become federated, he thought we ought as far as possible to assimilate our laws with those of the other colonies. It appeared to him that to look upon a bill drawn in Western Australia and payable in South Australia, or a bill drawn in South Australia and payable in Western Australia, two sister colonies,—it appeared to him that to look upon such a bill as a foreign bill was opposed to the prevailing sentiment of the day. He therefore moved that the words "the colony" "of Western Australia, or (b) drawn 'within the colony' be struck out, and the words 'Australia, Tasmania, New Zealand, or Fiji Islands, or (b) drawn within Australia, Tasmania, New Zealand, or Fiji Islands' be inserted in lieu thereof."

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he had no objection whatever to the amendment, though the practice in the different colonies seemed to vary. In South Australia, he believed, they defined an inland bill as a bill drawn and payable in that colony, and in New Zealand it appeared to be the same—following the law of England—but in Victoria it was different. In view, however, of the suggestion that had been thrown out as to the matter of federation, no doubt it was desirable as far as possible that we should act in concert with the other colonies, though, as he had already pointed out, those colonies

did not seem to reciprocate this sentiment towards each other.

MR. S. H. PARKER: We will lead the way.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): Very well.

The amendment was then put and adopted, and the clause as amended put and passed.

Clauses 6 to 14 inclusive were agreed to without discussion.

Clause 15.—"Where a bill is not payable on demand the day on which it falls due is determined as follows:—

(1.) "Three days, called days of grace, are in every case, where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace:

"Provided that—

(a.) "When the last day of grace falls on Sunday, Christmas Day, or Good Friday, the bill is, except in the case hereinafter provided for, due and payable on the preceding business day:

(b.) "When the last day of grace falls on a bank holiday under 'The Bank Holidays Act, 1884,' or when the last day of grace is a Sunday and the second day of grace is a bank holiday, the bill is due and payable on the succeeding business day."

MR. STEERE said there appeared to be an inconsistency between the various parts of this clause. A bill falling due on Sunday, Christmas Day, or Good Friday, was payable on the preceding business day, but a bill falling due on a bank holiday became payable on the succeeding business day. It appeared to him it would be far preferable if in all cases the latter arrangement were adopted. Perhaps the Attorney General would explain the reason why it was not so.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the reason was because such is the law in England, and such is the law of this colony at present, and they could not alter it without affecting many other provisions of the law. When a bank holiday was proclaimed, it was held that the acceptor of the bill should have the benefit of it, as



these holidays were casual occurrences—they were days that might be proclaimed by the Governor at any time; but the other holidays—Sunday, Christmas Day, and Good Friday—were fixed holidays, and everybody knew on what day they would fall, and could prepare to meet their bills accordingly. He need hardly point out that in transactions of great magnitude, one day in computing the time when a bill became payable might ruin a man. There was good reason for the distinction here made.

MR. S. H. PARKER said he found that in Victoria no distinction was made between bank holidays and fixed holidays, and all bills there became payable on the preceding business day. He saw no reason whatever why we should not assimilate our law in this respect with that of Victoria, even although it differed from the law of England. He would therefore move, as an amendment, that all the words after the word "day," in the 2nd line of sub-section (a), be struck out, and the following be inserted:—"Good Friday, or a bank holiday under 'The Bank Holidays Act, 1884,' the bill 'is due and payable on the succeeding 'business day.'" He did not know whether this alteration would make much difference to the mercantile community; there were gentlemen in the House who knew very much more about these matters than he did, and perhaps some of them would give the committee the benefit of their views on the point.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said this was a most inconvenient course to adopt. The hon. member had given notice of one amendment which he proposed to introduce, and that amendment had been assented to. Now the hon. member submitted another amendment, of which he had given no previous notice, and which he himself admitted would alter the law as it now stood in this colony and in England, while at the same time the hon. member said he was not aware that it would at all benefit the commercial community. The hon. member wished to introduce it merely in order that our law and the law of a neighboring colony might be in accord. The hon. member sought to alter what had been the law of England for centuries past because

the colony of Victoria had done so. That was a proposition which he, for one, could not accept. He thought it would be most dangerous to alter laws that had been settled for so many years. He did not know who had done this in Victoria, nor did he know when it came to pass, but, as the Attorney General of this colony, he submitted we ought to leave the law as it is. This was a bill to codify the law, and not to amend it, and he thought it would be very wrong, or at least very rash to accept this amendment—especially when the mover acknowledged that he did not know any other reason for it, nor any benefit it was likely to confer, further than that we should be assimilating our law with the law of Victoria. So far as he was concerned, he had no wish to invite any comparison between the laws of Victoria and the laws of England, but, on the whole, he rather preferred the laws of England. They were rather older, and perhaps may have been framed by persons even more experienced than those who framed the laws of Victoria. On the whole, he thought it would be most dangerous to alter a law of this nature, a law that had stood the test of centuries; and, if the committee would do it, they must take the responsibility of it. If they chose to do a rash thing, of course they were at liberty to do so. But his advice to the committee was—don't. The committee of course were not bound to take his advice to let the bill stand as it is; but, considering that no reason had yet been shown why they should alter this provision,—that when a bill fell due on a Sunday, Christmas Day, or Good Friday, the law should remain as it is, and as it was laid down in all works of authority, the bill becoming payable on the preceding day; and that when a bill fell due on a bank holiday it should be payable on the morrow. That, as he had already said, was the law of England, a law based upon innumerable decisions of courts of justice; and he ventured to submit that to alter a law that came to them with such a weight of authority, simply in order to show our sympathy with Victoria and in view of a possible federation of these colonies, was a proceeding which the House would do well to pause before committing itself to it.

MR. STEERE said the amendment commended itself to him because it simplified the law. If it were known to everyone in the colony that a bill was payable on the day succeeding a holiday it would be a very simple matter, which all would bear in mind; but if in some cases a bill falling due on one holiday was payable the day before, and a bill falling due on another holiday was payable a day after, it might lead to confusion, and it would be very difficult for people to bear in mind on what day a bill became payable.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said if these instruments were only intended to circulate in this colony there might be something in what the hon. member said. But Western Australian bills had a circulation and validity outside the colony, and he certainly thought it would be far better that our law should be in accord with the law of England than with the laws of any of the other colonies, especially seeing that the laws of those colonies differed one from the other in this respect.

MR. MARMION: Surely our laws as to bills of exchange would not affect the laws of the colony or country where a bill becomes payable?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he was not prepared at the present moment to enter into the question of the conflict of laws on the subject.

MR. S. H. PARKER said under the circumstances, then, he might be permitted to inform the hon. member for Fremantle that contracts (which included bills of exchange) were to be construed according to the law of the place where they were made, and were to be enforced according to the law of the place where the remedy was sought.

MR. MARMION: Thank you.

MR. LOTON did not pretend to speak on this question in its legal aspect at all; but, so far as the question went of whether a bill falling due on Sunday, Christmas Day, or Good Friday should be deemed under the law payable the day before or the day after, he did not think it would be very material, whichever way it was. But what did seem to him very material was this—if it could be so arranged, but it appeared it could not be so arranged—that there should be

one universal law on the subject. He could see it would be very inconvenient that the law in Western Australia should be that a bill due on a given holiday should be payable the day before, and that the law in the other colonies or in England should be that it should be payable the day after,—for it appeared from what had fallen from the Attorney General, if he understood the hon. gentleman, that West Australian bills circulating out of the colony would be treated according to the law prevailing in the colony. They were told in effect that a bill drawn in England payable here would be payable according to the law of England; but if the House followed the amendment proposed by the hon. member for Perth—which the hon. member had told them he had proposed simply as a matter of convenience and to bring our law into harmony with the law of Victoria—we should really have two laws on the subject, and he thought the wiser course would be to let this clause stand as it is. It was not very material perhaps: the only advantage which the amendment would give them was an extra day's grace, and, after all, what was one extra day, seeing that the previous day would be a holiday, when no business could be transacted, and no arrangement made for meeting a bill. On the other hand they would be departing from what probably every person, in business or out of business, knew was the custom almost from time immemorial, that a bill falling due on Sunday, Christmas Day, or Good Friday, had to be met on the previous day.

MR. SHENTON said he had always understood that a bill became due according to the law and custom of the place where it was payable, and not according to the law of the place where it was drawn.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): Wherever the contract is made there the law is.

MR. S. H. PARKER: But the contract as regards a bill of exchange is not completed until the bill is accepted. I am sorry if I should differ from the hon. and learned Attorney General, but my idea is that a bill drawn in England on a person here, and payable here, is payable according to the law of this colony and not according to the law of the country

where it was drawn. The contract is made here; it is not complete until it is signed by the acceptor, and a contract must be construed according to the law of the country where it is made.

**THE ATTORNEY GENERAL** (Hon. A. P. Hensman): And the result of the amendment would be this,—where persons were trading between here and England, and drawing bills upon one another, if the bill were payable here it would not become due until the day after a Sunday, but if a bill were payable in England it would become due on an earlier date, which appears to me to be an inconvenience.

**MR. MARMION** said that for one bill drawn here on England, there were twenty drawn on Victoria, and if it would be an inconvenience as regards our transactions with England it would be a much greater inconvenience to the mercantile community to have the law here at variance with the law in Victoria. He did not think it was a matter of much importance, either way, and he thought the Attorney General might give way on this point.

**THE ATTORNEY GENERAL** (Hon. A. P. Hensman) thought it was much more likely that the law of Victoria would be made to harmonise with the law of England, than that the law of England would give way.

**MR. BURT** said it appeared to him a very small matter whichever way they viewed it, whether we assimilated our laws with those of Victoria or with those of England. But there might be this said in favor of the amendment of the hon. member for Perth—people in England perhaps were better prepared to meet a bill at an earlier date than people in this colony were. They were better able to pay it the day before it fell due than we were.

**THE ATTORNEY GENERAL** (Hon. A. P. Hensman) said the amendment had come upon him unawares. He would not say it had taken his breath away, for one got used to very startling propositions nowadays. But he could see that strenuous efforts were being made to convert this bill into a bill to amend the law, rather than a bill to codify the law. He failed to see why, because the colony of Victoria had chosen to alter the laws of England, we should do so. If we did so

we might find other old Acts in our way at some future time, for there were several old statutes which provided that, a thing having to be done, if it should fall on one of these holidays, had to be done the day before, and although hon. members might not at this moment see these difficulties, he could see that many difficulties might arise. However, he was in the hands of the House. It was no satisfaction to him to oppose these amendments, and if the House wished to accept the risk of so altering the bill, he had no personal feeling in the matter. He was not in the habit of drawing bills nor accepting bills—he did not think he had ever done such a thing in his life. All that he asked was that he should have time to consider the amendment in order that he might see its exact bearing.

**MR. S. H. PARKER** said if this had been some great matter of principle, or some profound question which a person of ordinary intelligence could not grasp after a moment's consideration, he might have understood the hon. and learned gentleman saying he should like more time to cogitate over it. But in a small matter like this he failed to see how anyone could be taken by surprise. It was hardly a question to take a man's breath away. For his own part he could not imagine how it could interfere with any old statutes in any way, except as to bills of exchange. He had not brought the amendment forward of his own mere motion, but at the request of other members of the House, who were anxious that our laws on the subject should be assimilated with the laws of Victoria. As to any personal feeling in the matter, he had no more personal feeling than the hon. and learned gentleman himself had. He could not go so far as to say that he had never drawn nor accepted a bill, but his transactions in that way had been very few and far between, and it was a matter of no concern to him personally whether these bills were made payable on Saturday or Monday. He had no objection, however, to progress being reported, though he should like to see the business of the House proceeded with.

**THE ATTORNEY GENERAL** (Hon. A. P. Hensman) said he had no wish at all to retard the progress of the business. If the committee wished to accept the amendment, and go on with the bill, well

and good. The amendment might be a good thing for the lawyers, if it passed; at the same time he was opposed to it himself, and, having said so, he would interpose no further remarks.

The amendment submitted by Mr. S. H. Parker was then agreed to.

The remaining clauses of the bill elicited no discussion.

Schedule agreed to.

Preamble and title agreed to.

Bill reported.

**MESSAGE (No. 14): RESULT OF NEGOTIATIONS BETWEEN CROWN AGENTS AND MR. HORDERN.**

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

"The Governor has the honor to lay before the Honorable the Legislative Council a Despatch (No. 55, of the 24th June last), from the Right Honorable the Secretary of State for the Colonies, enclosing documents showing the result of the negotiations which have been proceeding in London between the Crown Agents and Mr. Anthony Hordern, with reference to the construction of the proposed Land Grant Railway between Beverley and Albany.

"2. It will be seen that the draft of the contract which Mr. Hordern is prepared to agree to contains some substantial variations from the terms which received the approval of the Council last session. In particular, the absence of a sufficient safeguard for the continuous working of the railway, the obligation imposed upon the Government to pay all compensation due to occupiers who may be interfered with, and the provision against taxation of the land granted for the railway are points which will no doubt receive the careful attention of the Council.

"3. The presence of Mr. Hordern in the colony will much facilitate the Council in discussing the contract, and, to judge from an interview which the Governor has had with that gentleman, it would seem that a fair agreement may be arrived at without much difficulty.

"4. The Governor requests the Council to consider the papers and the whole

"matter, and to favor him with their opinion as to how far the points in which the draft contract differs from their Address of last year should be resisted, or may be conceded.

"Government House, Perth, 1st August, 1884."

THE COLONIAL SECRETARY (Hon. M. Fraser) moved, "That the Message be referred to a select committee; such committee to consist of the Commissioner of Railways, the Commissioner of Crown Lands, Sir T. C. Campbell, Mr. Brown, Mr. Marmion, Mr. Randell, Mr. S. H. Parker, Mr. Loton, Mr. Steere, and the mover."

Agreed to.

**MESSAGE (No. 15): APPOINTMENT OF MR. STEERE AS A MEMBER OF THE EXECUTIVE.**

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

"The Governor has the honor to inform the Honorable the Legislative Council that, in view of the very important questions now requiring that careful and united consideration of the Government and Legislature of the colony, he has determined to strengthen the Executive Council by exercising the power, placed in his hands by the Royal Instructions, of appointing, subject to Her Majesty's approval, an unofficial member of that Council.

"2. The Governor is convinced that Your Honorable House will learn with pleasure that this appointment has been accepted by Mr. J. G. Lee Steere, who has for so many years faithfully served the colony as an elected member of the Legislature.

"Government House, Perth, 1st August, 1884."

**MESSAGE (No. 16): AMENDED STANDING ORDERS.**

MR. SPEAKER also notified the receipt of the following Message from His Excellency:

"The Governor has the honor to inform the Honorable the Legislative Council that he has confirmed the amended Standing Orders Nos. 41 and 42, passed by Your Honorable House on the 23rd ultimo.

"2. The authenticated copy of the Standing Orders is returned herewith.  
 "Government House, Perth, 1st August, 1884."

#### BANK HOLIDAYS BILL.

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

##### Clause 5:

MR. S. H. PARKER'S motion to strike out this clause, and to substitute another clause introduced by him when the bill was previously under discussion (*vide* p. 122 *ante*) was agreed to, without comment.

Clause 6.—"It shall be lawful for the Governor in like manner from time to time, when it is made appear to the Governor in Council in any special case that in any year it is expedient that a day by this Act appointed for a bank holiday should be a bank holiday, to declare that such day shall not in such year be a bank holiday, and to appoint such other day as to the Governor in Council may seem fit to be a bank holiday instead of such first mentioned day, and thereupon the day so specially appointed shall in such year be substituted for the day so appointed by this Act."

MR. S. H. PARKER, in order to carry out the principle introduced into the preceding clause, as amended, moved that after the word "declare," in the 8th line, the following words be inserted, "by proclamation in a *Government Gazette* published not less than one week before the day appointed for such holiday." The hon. member said he was following the wording of the Victorian Act in this as in the other amendments he had brought forward. It would obviously be inconvenient to bankers and others if no notice were given beforehand of the intention of the Governor to declare a holiday.

THE COLONIAL SECRETARY (Hon. M. Fraser): I may say, as the member in charge of the Bill, that I have no objection to the amendment.

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

The remaining clause and the schedule were agreed to without discussion.

Preamble and title agreed to.

Bill reported.

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

This Bill passed through committee, *sub silentio*.

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

### LEGISLATIVE COUNCIL,

Monday, 4th August, 1884.

Petition (No. 1): Platform at "Half-Way House"—Moorings, &c., at Fremantle—Separation of the North from the South—Eastern Railway: cost of Second Section—Eastern Railway: Extension to Beverley—Telephone Exchange between Perth and Fremantle—Newspapers (Registration and Libel) Bill: second reading—Consideration of Message (No. 13) re Subsidising Steam Service to Singapore—Appropriation Bill (Supplementary), 1884: second reading—Deeds of Grant Bill: second reading—Adjournment.

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

#### PRAYERS.

#### PETITION (No. 1): PLATFORM AT "HALF-WAY HOUSE."

MR. S. H. PARKER presented a petition, praying that a platform be erected at the "Half-Way House" (known as the Albion Pleasure Garden), on the Eastern Railway between Perth and Fremantle.

The petition was received and read.

#### MOORINGS, &c., AT FREMANTLE.

THE DIRECTOR OF PUBLIC WORKS (Mr. C. T. Mason), replying to a question asked by Mr. Marmion on July 28th,—as to whether the anchors and chains necessary to provide accommodation for mooring vessels loading and discharging at Fremantle, for which funds had been voted by the Council two years ago, had yet been purchased or indentured for,—said the subject had engaged the serious attention of the Government, and from time to time they had been