

## LEGISLATIVE COUNCIL,

*Friday, 22nd August, 1884.*

Petitions—Land Grant Railway, Beverley to Albany, Mr. Hordern's scheme: further consideration of report of select committee—Message (No. 23): Increase of Governor's salary—Message (No. 24): Assenting to Land Quarantine Bill—Wines, Beer, and Spirits Sale Act, 1880, Amendment Bill: further considered in committee—Newspaper (Libel and Registration) Bill—Adjournment.

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

## PRAYERS.

## PETITIONS (Nos. 5 AND 6).

THE COLONIAL SECRETARY (Hon. M. Fraser) laid on the table a petition to His Excellency the Governor, from settlers in the Wellington district, praying for a railway from Bunbury to the timber ranges.

MR. MARMION brought up a petition (No. 5) from the Mayor and Councillors of Fremantle, praying that a scheme of Harbor Works at Fremantle might be included in the next Loan Bill.

The petition was received.

MR. S. H. PARKER brought up a petition (No. 6) from the Rev. D. Shearer, praying that an Act for the incorporation of certain office bearers of the Presbyterian Church might be passed by the Legislative Council.

The petition was received.

## LAND GRANT RAILWAY, BEVERLEY TO ALBANY: MR. HORDERN'S SCHEME; REPORT OF SELECT COMMITTEE.

The House then went into committee for the further consideration of the report of the select committee on Mr. Hordern's proposals for the construction of a railway between Beverley and Albany, on the land grant system.

Resolutions 5 to 49 were agreed to, after some explanatory remarks from the hon. member for the Gascoyne, who was a member of the select committee.

THE HON. J. G. LEE STEERE moved the following resolution, to stand as clause 50: "That the contractor shall, on 'being required by the Commissioner of Railways, cause to be made all necessary 'and sufficient under and over bridges 'and level crossings, accommodation 'roads, approaches, cattle creeps, water

"courses, drains, culverts, and other "works, as may be required for the accommodation or protection of the lands "intersected by the railway." The hon. member said he saw that the same provision was made in the draft contract prepared between the Crown Agents and Sir Julius Vogel, in connection with the proposed line to Eucla, and he could not help thinking it was a very necessary provision to make.

The motion was agreed to, without discussion.

THE ATTORNEY GENERAL (Hon. A. P. Hensman), referring to clause 41 of the draft contract, said the object of this clause must be to allow the Government or any other Railway Company to run over and use the line proposed to be constructed; but, as the clause stood, it was only the Government and persons using the Government railways who could run over and use the line; whereas it was evident from the previous clause that the intention was that the Government or any person using any line in the colony—a private company's line or otherwise—should have this power, under the conditions named. He should like to take the sense of the committee on that point.

THE HON. J. G. LEE STEERE said there could be no doubt upon the point referred to. The intention of the select committee was exactly as stated by the Attorney General.

The resolutions were then ordered to be reported.

THE SPEAKER took the Chair.

THE CHAIRMAN OF COMMITTEES reported that the committee had considered the report of the select committee, and had agreed to certain resolutions.

The report was adopted.

SIR T. COCKBURN-CAMPBELL, with leave, without notice, moved, "That 'an humble address be presented to His 'Excellency the Governor, informing 'him that, having carefully considered 'His Excellency's Message No. 14, together with the enclosed draft contracts 'prepared by the Crown Agents and 'Mr. Hordern respectively, for the construction of the proposed Beverley-Albany Railway, this Council, taking 'the latter draft as its text, has 'adopted certain resolutions, which will 'convey to His Excellency the opinion

"of the House as to how far Mr. Horn's draft contract may be accepted, and in what respects it should be amended."

The motion was agreed to *sub silentio*.

MESSAGE (No. 23): INCREASE OF GOVERNOR'S SALARY.

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, in reply to their Address No. 25, of the 19th instant, that he will, as requested by the Council, cause a Bill to be prepared, repealing the Ordinance 38rd Victoria, No. 2, and appropriating out of the general revenue the annual sum of Twelve hundred pounds to be paid by the colony towards the salary of the Governor or Officer Administering the Government for the time being; and that he will reserve the Bill, when passed by the Council, for the signification of Her Majesty's pleasure thereon.

"Government House, Perth, 22nd August, 1884."

MESSAGE (No. 24): ASSENTING TO LAND QUARANTINE BILL.

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

"The Governor informs the Honorable the Legislative Council that he has this day assented, in Her Majesty's name, to the undermentioned Bill:

"3. *An Act to amend 'The Land Quarantine Act, 1878.'*

"Government House, Perth, 22nd August, 1884."

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

The House went into committee for the further consideration of this bill, when the new clause introduced by the Attorney General (to stand as Clause 8\*)

\* "It shall be lawful for the licensing justices to grant to any such person as may be approved of by them a certificate authorising the granting of a license to be called an hotel license. An hotel license shall be in the form contained in the schedule hereto. The annual fee which shall be paid for a license shall be twenty-five pounds, subject to the provisions of section 13 of the principal Act as to part payment of such annual fee."

was agreed to without further discussion.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he had drafted another clause a little different from the clause as originally worded, to stand as clause 9. He had endeavored to embody in the amended clause the various suggestions thrown out during the discussion on the subject the other evening, and the clause now read as follows:—

"An hotel license shall authorise the licensee to sell and dispose of any liquor, at any time, to lodgers or boarders in the hotel, for the use of such lodgers or boarders, or of their guests, to be consumed on the premises, or to persons taking a meal at the hotel, to be consumed during such meal; but it shall not authorise the licensee to sell or dispose of liquor to any other persons or in any other manner than as aforesaid." It was suggested in the course of the debate the other evening, that, as the clause was originally worded, lodgers might take away liquor with them from the hotel, and that this might lead to abuses, but the clause as it now stood provided that the liquor supplied must be consumed on the premises by the lodgers or their guests. Objection was also taken to the provision made as to supplying liquors to persons merely taking a meal at the hotel, and it was pointed out that this also might lead to abuse, as it would enable persons who were so inclined to go to an hotel, call for a sandwich, and sit there drinking for hours afterwards. It was now provided that any liquor so supplied must be consumed during the meal with which it was ordered. He had endeavored, as far as possible, to meet the various objections raised, and he thought the clause as now worded would commend itself to the committee.

The clause was then put and passed.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the following new clause be added to the bill, to stand as clause 10:—"All the provisions of the principal Act as to the conditions of obtaining licenses, the hearing of and objections to applications, the renewal and rehearing of applications for and the transfer and removal of licenses, shall apply to hotel licenses in as full and ample a manner as to the

"other licenses mentioned in the said Act; provided that the said provisions are applicable thereto and are not inconsistent with this Act. The holders of hotel licenses shall have all the rights and shall be subject to all the duties and liabilities of the holders of Publican's general licenses under the said Act, subject to the proviso aforesaid; and section 49 of the principal Act shall apply to every house for which an hotel license shall be granted." This, the Attorney General said, would meet the objections raised the other day by the hon. member for the Greenough, as to the privileges and immunities which these hotel keepers would have, as compared with the ordinary publican. The conditions upon which a house could be licensed under the principal Act would be found embodied in the 18th clause of that Act, and it was now proposed to apply those conditions to these hotel licenses, so long as they were not inconsistent with the requirements of such licenses. A suggestion was also thrown out the other day that the goods of lodgers at these hotels should be exempted from distress, in the same way as the goods of lodgers at public houses were not liable, and this suggestion had been here adopted, the new clause, it would be observed, enacting that the 49th section of the principal Act shall apply to every house for which an hotel license shall be granted.

MR. CROWTHER said, although he was opposed to the whole principle of these hotel licenses, the new clauses now introduced removed some of his objections. At the same time he thought this was a form of license that was quite unnecessary.

MR. BROWN thought some provision ought to be made whereby the keepers of these hotels might be empowered to refuse admission to the hotel of persons who in their opinion were not likely to conduct themselves with propriety, and who might become very undesirable customers, to the great annoyance of the respectable and orderly lodgers.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said they could not very well do that, as these hotels, being licensed, were to all intents and purposes houses of public accommodation. If they were respectably conducted they would

be patronised by respectable people, and if a man should misbehave himself he would of course be liable to be turned out.

MR. CROWTHER did not think it mattered much what conditions they applied with regard to these licenses, for he did not suppose there would be a license of the kind taken out in any part of the colony, except it might be one or two at Perth or Fremantle. Publicans in this colony depended on their bar business for a living, and if they shut up the bars they might as well shut up altogether.

MR. BROWN said he felt so strongly on the subject that he must move an amendment, which was, that after the word "aforesaid," in the 17th line, the following words be inserted,—"except that such holders shall not be bound to supply liquor or provide lodging or meals to any person to whom they shall think fit to refuse to supply liquor, lodging, or meals."

The amendment was negatived, on the voices, and the new clause put and passed.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) then moved that the following new clause be added, to stand as clause 11: "No licensed person or his servant or agent shall sell, give, or supply any liquor to any young person apparently under the age of sixteen years, to be drunk on the premises; and no licensed person shall permit any young person apparently under the said age to be or remain upon licensed premises unless he or she shall be under the immediate care or control of his or her parents or guardians, or shall be a lodger or boarder at such premises; and any person offending against any of the provisions of this section shall, on conviction thereof before any one or more Justices of the Peace, be liable to a penalty for every such offence of any sum not exceeding Five pounds." It had been represented to the Government by some of the leading residents of one of the districts of the colony—Geraldton, he believed—that there was a tendency on the part of some young persons in that part to loiter about public houses, and thus to get into bad habits in early life, and the Government had brought this clause forward in order to give the

House an opportunity of expressing its opinion on the subject, and, if possible, to prevent our young people contracting these bad habits.

MR. BROWN did not think there was any necessity at all for such a clause. Mathew Burnetts notwithstanding, he thought a great deal too much had been made of the drinking habits of Western Australians. As to Geraldton, for which they were told this clause was specially intended, all he could say was, it was not in accordance with his experience of Geraldton, and he had lived there all his life. He did not think young persons under 16 were more in the habit of loitering about public houses at Geraldton than they were in any other part of the colony, or in England itself, and he had yet to learn that such a clause as this was in force in England or anywhere else, so that in this instance, at any rate, the argument as to the desirability of assimilating our laws with the laws of England did not apply.

MR. VENN hoped the Attorney General would withdraw the clause. He did not think our young people were any worse in this respect than young people elsewhere, and he thought it would be a libel upon the children of the colony to have such a law on the statute book.

MR. CROWTHER said if the recommendation for introducing such a clause emanated from Geraldton, which he believed it did, he could assure the hon. and learned gentleman opposite that it was a mere matter of mawkish sentimentality. He would say nothing about the old people, but this he would say about the Victoria district generally,—he would venture to compare it, in this respect, with any district in the colony, or in the whole of Australia, so far as the native born population pure and simple were concerned.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said it was not of course intended for a moment to insinuate that the young people of Geraldton, or the old people of Geraldton, were in the habit of drinking more than other people; but the representations which had been made to the Government on the subject of this clause had been signed by the Magistrate, and the medical officer, and many of the leading inhabitants of the town. For his own part he should rather

consider it honorable to the Geraldton residents that they should take such an interest in the welfare of their young people, as to seek to prevent them from falling into bad habits in their early days. So far as the Government were concerned, they had no other object in view, and it was for the House to say whether they would have the clause or not.

MR. MARMION was afraid that the clause if passed would remain a dead letter. If youngsters wanted to get liquor they would not go to public houses and drink it there openly and publicly, but would consume it in some other way.

The clause was then put and negatived, on the voices.

MR. S. H. PARKER said he wished to add a new clause to the bill, with the object of repealing the proviso to section 15 of the principal Act, which was as follows: "Provided that if the certificate for such annual licenses respectively be granted after the 31st March, the licensee shall pay only three-fourths of such annual fee; and if granted after the 30th June, one-half of such fees; and, if after the 30th September, only one-fourth of such fee." That was clearly an error. The licensing meetings were held on the first Mondays in March, June, September, and December, therefore if a certificate were granted on the first Monday in June, to commence on the 1st July, it was clear that the license would only have half a year to run. But, according to this proviso, by confounding the certificate with the license, the licensee would have to pay three-fourths of the annual fee. The certificate and the license were two different things, and the amendment which he was about to propose would simply carry out what he was sure was the original intention of the Legislature. The very last license granted in Perth was in June, and the Colonial Treasurer made the man pay three-fourths of the annual fee, although the license only extended over half a year. The new clause he had to move was as follows: "The proviso in section 15 of the principal Act is hereby repealed, and in lieu thereof the said section shall be read and construed as if the following words were added thereto, namely, 'Provided, nevertheless, that if the term of any such

“license shall commence on or after the first day of April in any year, the licensee shall pay only three-fourths of such annual license fee; if on or after the first day of July, one half of such fee; and if on or after the first day of October, only one-fourth of such annual fee.”

The motion was agreed to, without discussion.

MR. S. H. PARKER also moved that the following new clause be added to the bill: “The words ‘and with a stockyard’ for the accommodation of twelve bullocks at the least,” in the 14th and 15th lines of the 18th section of the “principal Act, are hereby repealed.”

The clause referred to required a publican, before he could obtain or hold a license, to have accommodation on his premises for at least a dozen working bullocks. Now, however desirable such a provision may have been in days gone by, it was no longer necessary, and, as a matter of fact, was virtually a dead letter as regards the licensed houses in the chief centres of population. What was the use of providing a stockyard for the accommodation of at least twelve bullocks in connection with the hotels at Perth or Fremantle for instance?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said such a provision may or may not have been desirable in the original Act, but there it was, and it was very desirable, if possible, to avoid amending and altering Acts of Parliament unless absolutely necessary. In this case he would point out that justices might grant certificates under the Act upon other conditions than those specified in the clause of the principal Act referred to, as to the extent of accommodation to be afforded, or in any other respect. He had no wish to oppose the amendment, but it would be seen that the justices need not necessarily insist upon such a condition being inserted in the certificate.

MR. S. H. PARKER said he was not now going to argue what was the legal construction to be placed upon the clause referred to (the 18th of the principal Act), but this he knew—the Police Magistrate at Perth did not consider he had such a discretionary power. If the justices had a discretionary power to forego the condition as to a stockyard, they must also have the power to dis-

pense with the other conditions referred to in the clause—stabling for instance. [The ATTORNEY GENERAL: Yes.] All he could say then was that the Police Magistrate and the licensing bench of Perth did not so interpret the clause, and he would point out that, in the matter of refusing a certificate, there was no appeal from the decision of the licensing bench.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said, if the Police Magistrate did take that view of the clause, he was sorry he could not agree with him on that point. However, so far as the occupants of the Treasury bench were concerned, he did not suppose that either he or his hon. friends were likely to require accommodation for twelve bullocks, at any time, and he did not intend to oppose the amendment, if the committee considered it necessary or desirable.

Question put—That the new clause be added to the bill; whereupon the committee divided, with the following result,—

Ayes	...	...	5
Noes	...	...	12

Majority against ... 7

#### AYES.

Mr. Brown  
Mr. Burt  
Mr. Higham  
Mr. Marmon  
Mr. S. H. Parker (Teller.)

#### NOES.

Hon. M. Fraser  
Hon. J. Forrest  
Mr. Mason  
Mr. Crowther  
Mr. Davis  
Mr. Glyde  
Mr. Loton  
Mr. McRae  
Mr. Randell  
Hon. J. G. Lee Stoere  
Mr. Venn  
Hon. A. P. Hensman  
(Teller.)

The new clause was therefore rejected.

MR. S. H. PARKER then moved an amendment in the 59th section of the principal Act, to introduce the words “or travellers” after the word “lodgers,” in the 17th line. The clause referred to provided that public houses shall not be open after certain hours, and no drinks shall be supplied after those hours except to *bona fide* lodgers. This, the hon. member said, had been found to be very inconvenient in the case of travellers calling at an hotel, say after 10 o'clock, who, under this clause, could not be supplied with any liquor, without subjecting the landlord to a penalty.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) presumed the committee

was aware that the Magistrates might dispense with these restrictions and prohibitions with regard to any particular house, so that if there was any licensed house on a line of road where travellers were likely to pass late at night, it was quite open to the Magistrate to remove this restriction as to supplying liquors after 10 o'clock. He should have thought that the removal of the restriction was likely to prove a source of annoyance rather than of profit or convenience to the licensee of these houses. If the amendment passed, a landlord would be liable to be turned out of bed at any hour to supply a man who happened to travel past his house, with a glass of beer.

The motion was negatived, upon a division, by a majority of 11 to 3.

Progress was then reported, and leave given to sit again at the next sitting of the House.

#### NEWSPAPER (LIBEL AND REGISTRATION) BILL.

Read a third time and passed.

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

#### LEGISLATIVE COUNCIL,

*Monday, 25th August, 1884.*

Sir Julius Vogel's Submarine Cable Scheme—Extension of Mail Service to Arthur River—Presbyterian Church Bill: first reading—Cattle Trespass Act, 1882, Amendment Bill: first reading—Wines, Beer, and Spirits Sale Act, 1880, Amendment Bill: further considered in committee—Deeds of Grant Bill: further considered in committee—Adjournment.

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

PRAYERS.

#### SIR JULIUS VOGEL'S SUBMARINE CABLE SCHEME.

THE HON. J. G. LEE STEERE, in accordance with notice, asked the Colonial Secretary whether the Govern-

ment had received any further information beyond what had been communicated to the Council, respecting the proposal of Sir Julius Vogel to lay a submarine cable from Western Australia to Ceylon?

THE COLONIAL SECRETARY (Hon. M. Fraser) replied that no further information had reached the Government.

#### MAIL SERVICE TO ARTHUR RIVER.

MR. BROWN, in accordance with notice, moved, "That an humble address be presented to His Excellency the Governor, praying that he will be pleased to place upon the Estimates a sufficient sum of money to cover the cost of extending to the Arthur River the existing monthly mail service between Geraldton and Nookawarra." The hon. member explained that the Arthur River referred to was a tributary of the Gascoyne. It was estimated that the cost of the service would not exceed about £100, and, as there was already a sum of £80 left from the vote of £300 granted last year for the service from Geraldton to Nookawarra, this extended service, which would be a great boon to the settlers in the neighborhood, would virtually only cost the colony some £20 or £30 more than had already been voted for its inland mail service.

THE COLONIAL SECRETARY (Hon. M. Fraser) was sure, when the hon. member saw the Estimates which he hoped to lay on the table in the course of a few days, and observed the immense sums which the House would be asked to vote for the upkeep and maintenance of mail and telegraph services throughout the colony, the hon. member would, in view of the efficient manner in which the settlers generally in these districts were already served in the matter of mail communication, be satisfied to let this additional service remain in abeyance for another year. He was aware there was a link yet to be filled in, to complete the chain of communication, but he thought the settlers might for another year at any rate avail themselves of one or other of the two circuit services already provided for them.

MR. BROWN was quite sure the present Government were alive to the necessity and desirability of providing