

**Legislative Assembly.***Thursday, 4th November, 1897.*

Message (Appropriation): Aborigines Bill: first reading—Question: Railway Bridge or Crossing for Fremantle—Question: Repairs to South Bay Pier. Fremantle—Excess Bill, 1896: third reading—Sale of Liquors Amendment Bill: in committee—Adjournment.

THE SPEAKER took the Chair at 4:30 o'clock, p.m.

**PRAYERS.****MESSAGE (APPROPRIATION)—  
ABORIGINES BILL.**

The PREMIER presented a Message from the Governor, and the same was read, recommending an appropriation out of the Consolidated Revenue Fund for the purpose of a Bill intituled "An Act to Further Amend the Constitution Act of 1889, and for the better Protection of the Aboriginal Race of Western Australia."

Bill introduced by the PREMIER, and read a first time.

**QUESTION—RAILWAY BRIDGE OR  
CROSSING FOR FREMANTLE.**

MR. SOLOMON, in accordance with notice, asked the Commissioner of Railways, Whether he had considered the request made by the Fremantle Council that he would either open a crossing or erect a bridge over the railway line at the end of Packenham or Market Street, Fremantle.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied:—The request of the Fremantle Council has received consideration, but as material alterations in the Fremantle station yard are contemplated, it is not convenient at present to grant the Council's request.

**QUESTION—REPAIRS TO SOUTH BAY  
PIER, FREMANTLE.**

MR. HIGHAM, in accordance with notice, asked the Director of Public Works—1. Whether he was aware that the extreme section of the South Bay Pier at Fremantle was in such a condition as rendered it unfit for use, and thus deprived the shipping trade of two of the most useful berths. 2. If so, whether it was his intention to have the same thoroughly repaired at once.

**THE DIRECTOR OF PUBLIC  
WORKS (Hon. F. H. Piesse) replied:—**

1. I am aware that the head of the South Bay Pier at Fremantle requires to be repaired, but I was not aware that ships were unable to use it. 2. Inquiries are now being made into the matter, and the necessary repairs will be effected without delay.

**EXCESS BILL, 1896.****THIRD READING.**

Bill read a third time, and transmitted to the Legislative Council.

**SALE OF LIQUORS AMENDMENT BILL.  
IN COMMITTEE.**

Clauses 1 to 6, inclusive—agreed to.

Clause 7—Sale or possession of adulterated liquor:

MR. RASON moved, as an amendment in line 10, that the words not "exceeding £50" be struck out, and the words "not less than £10 nor more than £50" be inserted in lieu thereof. He said that unless some such amendment were made, it would be possible for justices to inflict only a nominal penalty, perhaps a few shillings, for selling adulterated liquor; whereas, in view of the enormous profits on the sales of adulterated liquors, there should be an absolute certainty of a heavy penalty following on conviction, so that this Bill might operate as a deterrent. He intended to propose a further amendment.

Amendment put and passed.

MR. RASON moved, as a further amendment in the same clause, that in line 14, after the words "hard labour," the following be added: "and also render the person convicted liable to be declared disqualified perpetually from applying for or obtaining a license, or a renewal or a transfer of a license, under this or the principal Act." The same reason he had given for the previous amendment would apply to this one. The chance of incurring a heavy fine would possibly not deter some persons from continuing the evil practice of selling adulterated liquor; but, if they also ran the risk of having their license forfeited, that would operate as a deterrent. The amendment he proposed was exactly the same as they had in South Australia, where it had been found to work exceedingly well. In the interest

of the public, there should be most stringent regulations, but this was also desirable in the interest of those honest traders who did endeavour to conduct their public-houses properly, and to supply their customers with good liquor. Such persons would welcome the most stringent regulations, because, under the existing system, they had to compete unfairly with less honest rivals.

MR. QUINLAN did not quite agree with the whole of the amendment, and suggested the omission of the word "perpetually." It would be rather too stringent to prevent a man all his life from obtaining a license, as a punishment for having twice committed an offence.

MR. SOLOMON: There must be a time specified.

MR. GEORGE: A man who deliberately attempted to poison people a second time, after having been convicted once, should be disqualified for ever.

MR. ILLINGWORTH: A man who committed the offence complained of was first of all poisoning his fellow man, and secondly defrauding the revenue.

THE PREMIER: If he diluted the liquor with water, he would not be "poisoning" anybody.

MR. ILLINGWORTH: If a man had been fined and cautioned and still persisted in committing the offence, he should be prevented from committing it again. No magistrate would be likely to impose this extreme penalty, unless there were aggravating circumstances. The word "shall" was not used, but power should be given to the magistrate to put it out of the power of a man to commit such an offence again. It was the only way in which to reach cases of this kind. Large profit was made out of these improper means of gratifying the public taste, and if a man was not deterred by the fine, and in addition to that the case was of such a nature that the magistrate thought it would not be covered by three months' imprisonment, some means should be put into the hands of the magistrate to enable him to stop any further offence of this nature. As a total abstainer, he (Mr. Illingworth) was not likely to be poisoned by whatever liquor might be sold, but the character of the offence was one with which they should have no sympathy. When a man deliberately and calmly, for the sake of mere profit, went so far as to

endanger the lives of his fellow men, and not only endangered their lives but their reason, there should be no sympathy felt for the offender if he persistently carried on such a course. The House should see the propriety of empowering the magistrate to put an end to this sort of thing. The best sense of the House would be with the hon. member who moved the amendment.

THE PREMIER: This clause embraced two, perhaps more, classes of persons. There was the person who mixed too much water with the spirit, and, looking at the question from the standpoint of the member for Central Murchison, the man who merely put too much water in the whisky or brandy should not be visited with so great a penalty as the man who mixed poisonous stuff with it. Very little difference was made in the Bill between the man who only mixed water with the liquor and the one who mixed things that were injurious. The man who mixed water with intoxicating liquor that he sold would rather be doing good work for the community, from a teetotal point of view. There was a wide difference between the two offences. Putting too much water in the spirit was one offence, and mixing vitriol and opium, or similar poisonous drugs or substances, with a small quantity of spirit, adding a good deal of water, was another offence. This was not a matter to be dealt with off-hand. It was almost a theory of our laws, although there were exceptions to it, that when a man had purged his crime he should not be visited with a penalty for the remainder of his life. A man might even twice in his lifetime commit some offence, might repent, and might, in middle-age, become a good member of society. The theory of our laws was that when a man had purged his offence he was free. Credit must be given to the magistrates for the possession of ordinary common sense and discretion. It was not supposed that magistrates would be inclined to license people who had been recently convicted. Taking the case of a man who had been twice convicted in early life, and became a most respectable member of society in middle-age, no one would think of twitting such a man with crimes committed in his youth. It was not necessary to legislate in such a way as to prevent magistrates or persons

entrusted with authority from dealing with a case on its merits. To mix water with intoxicating liquor was not a serious offence, in itself.

MR. DOHERTY would support an amendment for excluding an offender from holding a license for the next five years. The member for South Murchison should always remember that "the quality of mercy is not strained."

MR. RASON: The disqualification would not be compulsory, but entirely in the hands of the magistrate, and no doubt there would be on the bench magistrates who would exercise the right of disqualification only in flagrant cases. To meet the wishes of the House, and with permission, he would alter his amendment, by withdrawing the word "perpetually" and inserting "five years."

Amendment, by leave, altered accordingly.

MR. LEAKE said the hon. member's object could be better attained in another direction, if he intended that, on conviction for a second offence, the license should be forfeited.

MR. RASON: Not necessarily.

MR. LEAKE: If a man got six months' imprisonment for doing a certain thing, then the offender ought to have his license taken away. The amendment should be altered so that the offence be made punishable by six months' hard labour, and thereupon the license should become forfeited. The object was not to penalise the public-house or its owner, but to punish the offending licensee; and if the magistrates declared the license forfeited, that man should not get another license without the permission of the bench, in which case the conviction would not be forgotten. One of the greatest difficulties in the administration of the licensing laws at present was the stringency of the penalties. In some cases, where a nominal fine of £1 or £5 should be sufficient, a heavy penalty had to be imperatively inflicted. For the second offence, the accused had to go for trial by a jury, and was liable to imprisonment—not to fine or imprisonment, but to a pretty stiff penalty. The principle of the clause was that, in order to make it operative, the clause must provide that a person knowingly, or even unknowingly, selling adulterated liquor

could be convicted. Of course a person so charged might be able to justify himself; and although he had technically committed a breach of the Act, it might be nothing more than a technicality. In that case, the penalty of six months and a consequent forfeiture was going too far. It was a defence at present to the charge of selling adulterated liquor that the accused did not know the liquor was adulterated. If the prosecutor were compelled to prove that the person selling adulterated liquor did it knowingly, there would never be a conviction. Any person having adulterated liquor on his premises was liable to a fine, but he had a remedy against the person from whom he had purchased the liquor. The person selling the liquor might be the victim of circumstances a second time, and then, under the proposed amendment, the offender would have to be put into prison for six months and his license would be taken away. The object of the amendment would be attained if the license were to be cancelled on a second conviction; for although the same man might apply again for a license, yet the magistrates would take care that, if the applicant was well-known as a seller of adulterated liquor, they would not grant him another license. The committee would go too far if they adopted the amendment.

MR. RASON: To declare the license forfeited would be rather a punishment on the owner of the house, than on the individual. When a license was cancelled, the house ceased to be a licensed house, and he wanted to avoid that difficulty by punishing the individual who offended, and not punishing anyone else.

MR. LEAKE: Forfeiture happened in certain cases now, but it was overcome by the licensee transferring his license before conviction. The same thing could be done in the case under discussion.

MR. QUINLAN: The tenant did not always transfer his license before conviction. Landlords had been made the victims. The amendment proposed by the member for South Murchison was a proper one. It was already provided in the Act that, if the occupant of a hotel or a licensee were absent from his premises 28 days, he forfeited his license. That was a provision to protect the

owner or proprietor in respect of the license; but if the suggestion of the member for Albany were carried out, the proprietor would not be protected.

MR. RASON: There was only a discretionary power left in the hands of magistrates. Exactly the same provision as he now suggested had been in the South Australian Act for many years, and was found to work well there. If it had created an injustice there, no doubt it would have been repealed, but no attempt had been made to alter this provision in the South Australian Act.

MR. LOCKE: The provision in reference to putting pure water into liquors might be done away with, as not much harm was done to liquor in this way, and in some instances the watering was an advantage. If a man put any poisonous ingredient into liquor, then he deserved a heavy penalty; but for putting clear water into liquor, the penalty seemed rather heavy.

MR. HUBBLE said he was rather inclined to agree with the member for Albany (Mr. Leake). When a licensee sold adulterated liquor, he was undoubtedly depreciating the value of the property he occupied, and the proprietor should be empowered to take possession for protecting it.

MR. EWING: With the qualification added by the member for South Murchison (Mr. Rason), the amendment was a good one. The owner of a house should not be penalised for the improper conduct of the licensee. In many cases an owner had no control over the licensee, who might have got possession by an assignment of the lease or otherwise. A license was granted on the principle that the reasonable requirements of the neighbourhood justified a license. The next consideration was whether the licensee was a fit and proper person to hold a license. The mere fact of a licensee being fined did not affect the question of whether the locality required a licensed house or not, but merely whether that person was a fit and proper person to hold a license. The object of the Bill would be fully met if the offending person were punished in the way proposed in the amendment.

MR. GREGORY suggested that the member in charge of the Bill should omit from the clause the words "with water,"

and provide a lesser penalty elsewhere in the Bill for this milder form of adulteration. There would then be no objection to the amendment of the member for South Murchison (Mr. Rason), because a man who would place in liquor such other ingredients as those mentioned in the clause, deserved to be very heavily punished.

MR. SOLOMON: Penalising the proprietor in some cases had a deterrent effect on the magistrates, who often did not inflict that punishment which they would do if the licensee alone had to suffer. In a case at Fremantle not long ago, he (Mr. Solomon) was sure the fact that the proprietor of the building would suffer was taken into consideration by the bench. The proposal of the member for South Murchison would meet the case.

MR. WOOD: The debate had become so much involved, that there seemed to be considerable doubt as to what was before the committee. To perpetually disqualify a man was too much of a penalty. Even a man sentenced to imprisonment for life for murder, or any other serious offence, was generally liberated after ten or twelve years' incarceration; therefore, to disqualify an offending licensee for ever would defeat the ends of justice, in the same way as the present Act did. The alteration to disqualification for five years was one which ought to meet with approval.

Amendment put and division taken, with the following result:—

Ayes ...	...	...	11
Noes ...	...	...	15

Majority against ... 4

AYES.	NOES.
Mr. Ewing	Mr. Burt
Mr. Gregory	Mr. Conolly
Mr. Illingworth	Mr. Connor
Mr. Kenny	Sir John Forrest
Mr. Oats	Mr. A. Forrest
Mr. Quinlan	Mr. Higham
Mr. Rason	Mr. Hubble
Mr. Solomon	Mr. Kingsmill
Sir J. G. Lee Steere	Mr. Lefroy
Mr. Wood	Mr. Locke
Mr. Doherty (Teller).	Mr. Peisse
	Mr. Simpson
	Mr. Throssell
	Mr. Venn
	Mr. Leake (Teller).

Amendment thus negatived.

Clause, as previously amended, agreed to.

Clause 8—Justice or police officer may demand sample for analysis:

MR. DOHERTY: It would be better to define the premises into which a person wishing to get a sample of liquor should go, so as to include wholesale and retail premises. A great deal of liquor was adulterated in the wholesale houses, and the authorities should have jurisdiction over them. Several small illicit stills had recently been discovered, and there could be no doubt that it was the wholesale houses, and not the retailers, which disposed of the illicit product.

MR. LEAKE: The clause provided that any justice of the peace and any policeman could demand and take for analysis a sample or samples of liquor upon payment of a reasonable sum for the same. Would it not be better to appoint inspectors, and authorise them to take samples of liquor without payment? They might also be empowered to enter wholesale houses, and demand samples of either bulk or bottled liquor. He had not an amendment drafted for meeting all the cases, but the clause might be amended on re-committal.

MR. DOHERTY: They might also sample the liquor as it comes off the ship.

MR. CONNOR, while agreeing as to the necessity for appointing inspectors, said the provisions of the Bill seemed to be perfect in principle, but there was not the machinery for giving effect to them. He had intended to suggest, as a new clause "That, for the purpose of carrying out the above provisions, inspectors shall be appointed with power to go into licensed premises and take, for the purpose of analysis, samples of any brewed or distilled liquors kept there for sale." He hoped the member in charge of the Bill (Mr. Burt) would now accept this as an addition to Clause 8.

MR. HUBBLE supported the amendment, and indorsed the views of the member for Albany (Mr. Leake). The amount of adulteration going on was something cruel, and it was clear there ought to be inspectors visiting all hotels throughout the colony, with power to demand samples.

MR. HIGHAM: The words "licensed premises" ought to cover all classes of licenses; and he did not see the necessity for an amendment to include wholesale houses, these being included in the general

definition of premises. Inspectors should be appointed, the necessity for them being obvious.

MR. KENNY: Inspectors should be appointed, but it was also desirable that their duties should be clearly defined. All spirit merchants, auctioneers, and holders of gallon licenses should come under the clause, as well as the keepers of hotels; for his experience was that adulteration commenced in the spirit merchant's cellar, and was continued on the shelves of the hotel. To remedy this evil, the committee must strike at the root by including in the clause spirit merchants and all other sellers of drink.

MR. SOLOMON: It was unlikely that a justice of the peace would often visit public-houses for the purpose of obtaining samples; and it was not always advisable to allow police constables to take the initiative in matters of that kind. Only by the appointment of inspectors could the Bill be made effective.

MR. GREGORY: The haste with which the last clause had been rushed through was to be regretted. He had intended to move a further amendment as an addition; therefore, he hoped that Clause 7, now passed, would be re-committed. As to Clause 8, then under discussion, it was especially desirable that wholesale houses should be included, and he had intended to move for the appointment of excise officers, who should have power to deal with any matter concerning the administration of this and the principal Act, having the same powers as were given therein to justices of the peace or police officers. His precedent was that in Victoria, under the old Wines and Spirits Act, and prior to the appointment of excise officers, the police had neither time nor inclination to bring actions against publicans for Sunday trading; and another result was that prosecutions for selling adulterated liquor were very rare. But a great difference soon became observable after the appointment of excise officers for carrying out that Act in Victoria. The liquor then sold was of much better quality, and there was less sly-grog selling.

MR. SIMPSON: Did not the original Act specify all licensed premises? If so, the amendment was not necessary.

MR. BURT: Section 7 included all licensed premises.

MR. DOHERTY: That might do for lawyers, but, for the benefit of laymen, it was better that the different premises should be clearly specified.

MR. ILLINGWORTH: There was not the slightest chance of the Bill doing any good, if they had to depend for inspection on policemen and justices of the peace. The average policeman would not undertake the responsibility of going into a public-house and making himself an informer.

THE PREMIER: If he did, he got nothing out of it.

MR. ILLINGWORTH: Not only did he get nothing out of it, but in nine cases out of ten, it was almost impossible for a policeman to get a conviction. There seemed to be a general feeling among magistrates that policemen should not interfere in matters of this kind, as might be seen from the rebuffs which the police received from magistrates when endeavouring to secure convictions under the Act. The consequence was that here, as in the other colonies, the average policeman shut his eyes to offences of this kind. In addition to policemen, justices of the peace were the only persons who could demand samples of liquor under this Bill. But in other colonies, and probably in this country, many justices of the peace were publicans; therefore, how could such persons be expected to exert themselves for securing convictions? The placing upon the statute book of laws which were sure to be absolutely inoperative was the worst kind of legislation possible, because it prevented the passing of effective measures. Unless they appointed inspectors, the Bill might as well be dropped.

MR. GREGORY: This clause would be very useful, only it was necessary that officers should be appointed whose special duty would be to carry out the provisions of the Bill. Someone might go into a public-house and get served with very bad liquor, and might want to bring a case before the court, but, under this Bill, he would have to see a justice of the peace or a member of the police force in order to obtain a sample of the liquor.

MR. ILLINGWORTH: Inspectors should be appointed.

MR. O'CONNOR: The clause under discussion would not meet the case at all. Inspectors should be appointed whose

duty it should be to carry out the law, and they should be well paid for doing it. These men should be responsible and efficient, and above suspicion. This would be a useful Bill, but the machinery lacked a driving-wheel, and that driving-wheel was an inspector whose duty it should be to see that the work was done, otherwise it would be useless to pass the Bill. The only way to enforce the law would be to appoint inspectors, who should be above suspicion. He did not know whether a provision appointing inspectors could be inserted in this clause. The better way might be to have an additional clause at the end of the Bill. He would like to have the opinion of the member in charge of the Bill as to appointing inspectors, and whether an additional clause would be necessary for the purpose, or whether power should be given in this clause.

MR. LOCKE said he had intended to suggest that well-paid inspectors be appointed to carry out the provisions. There would be no necessity for appointing many, but two or three should travel about the country, using the railway when practicable for quick movement, and should take samples with a view to preventing adulteration.

MR. GEORGE: Clause 6 provided that any purchaser of liquor should be entitled to have an analysis; but according to Clause 8, now under discussion, the only person who could demand a sample was a member of the police force or a justice of the peace. If anyone went to a hotel and got bad liquor, he should not have to search for a policeman or a justice in order to get a sample, but should have the right to demand a sample on payment, and then he could carry out Clause 6 and get the liquor analysed. Otherwise, if anyone got served with bad liquor, he would probably show his disgust so thoroughly at the time that the publican would put that bottle out of the way of inspection. If the words "any person" were substituted for those relating to a justice or a policeman, this provision would include an inspector as also any one of the general public.

MR. BURT (in charge of the Bill): There was no objection on the part of the Government to the appointment of inspectors, but all this virtuous indignation would be thrown away unless public

opinion could be got to assist in these matters. Hon. members must bear in mind that, as soon as inspectors were appointed, the public would look to them to do the whole of the work. These inspectors would become known at once, and then would happen what the member for the Murray spoke of, that a particular bottle containing the adulterated liquor would be put away on the appearance of an inspector, and some other bottle would be produced. He (Mr. Burt) did not think the inspectors were going to do as much as people might expect, because the mere fact that they would soon be known must operate against them. At the same time he did not think it unreasonable that the special duty of some person should be to go round and see that the law was carried out. A clause could be inserted in the Bill for the appointment of inspectors. Let any member of the House, the next time he was served with bad liquor, lay an information. It would be found that no one would do it—that it never would be done. If anyone who was served with bad liquor asked for a sample and got it analysed, the evil complained of would soon be put down. He had no objection to make the Bill include inspectors to attend to the carrying out of the law. The committee could not say, in the Bill, that an inspector must do this or that. They could only empower him to do so, and look to the administration under which the inspector was placed to see that the work was done. Another thing he would like to mention was in regard to the police. One hon. member complained that the police did not do this work. He (Mr. Burt) thought it was unreasonable to ask the police to do these things, especially looking at the state of public opinion and sentiment on this matter. The police had been most unjustly accused of improper interference, and of showing malice against people, when they attempted to deal with the question. They were called under-hand informers, and all sorts of names. They were sneered at and jeered at from top to bottom. How then, under these circumstances, could the committee expect a policeman to do his duty? The policeman "fought shy" of having anything to do with the detection of sly-grog selling. He (Mr. Burt) was informed that there were scores of sly-grog shops

openly kept without licenses in Perth. How was it that there was never an information laid against them? Simply because the police had been sneered and jeered at every time they attempted to do anything of the sort. To his view, and he did not mind saying it openly, it was quite a mistake to think that a policeman was trying to do anything improper in endeavouring to get a man convicted, when he knew the man was doing wrong. It was a meritorious act on the part of the policeman, for which he ought not to be sneered at. It was quite a different matter to go into the house of a private individual against whom there could be no suspicion, to see if he was selling liquor "on the sly" to people. How could a policeman detect adulteration in public-houses, unless he disguised himself? Yet in nearly every case when he had done this, within the last six years, the policeman had been held up as a mean, disreputable rascal; and it was not therefore to be wondered at that the police did not care to deal with these matters. They found it impossible to get convictions, and that everybody was jeering and sneering at them for having attempted to do their duty. He (Mr. Burt) hoped public opinion would turn in favour of the police, in future. If any good was to be got out of this Bill, the inspectors who should be appointed must be looked upon as men doing their duty, even if they had occasionally to use a disguise. If the public and the press were going to turn on an inspector and say he was a "mean skunk" for going into a public-house for the purpose of detecting the selling of adulterated liquor, then the thing would go on in the same old way.

**MR. HUBBLE:** The inspectors in the other colonies appointed by the Government were a well-known body of men, and they did not go about disguised. They had the power to go behind a bar, take down any bottle, and test a sample of its contents themselves. If the quality was not up to proof, an information was laid against the licensee. These inspectors travelled from one end of the colony to the other.

**MR. ILLINGWORTH:** Any person could buy liquor, but could get only what the publican sold to him; and, if the publican suspected any danger, he would be sure to give that person good liquor.

Persons should be appointed with authority to go into and search premises for bad liquor, and, if they found it, to test it. That was what was done in the other colonies. If such inspectors were appointed here, this Bill would be effective. If inspectors were not appointed, the Bill would be no good.

MR. LEAKE: Instead of stating in the clause that, "Any justice of the peace and any member of the police force may demand and take for analysis a sample," &c., the clause should say, "Any person may demand and take for analysis a sample." That might get over the difficulty.

MR. CONNOR: That would not meet the case, as it would not be the duty of "any person" to take a sample for analysis.

MR. LEAKE: But the term "any person" would include inspectors as well as the general public.

MR. CONNOR: Inspectors should be absolutely provided for.

MR. BURT said that, having judged the sense of the House, he would draft a new clause to meet the case, and bring it up on re-committal.

MR. HIGHAM: It should not go forth that the House supported neglect of duty on the part of the police.

MR. DOHERTY moved, as an amendment in line 4, that the words "wholesale or retail" be inserted after the word "premises." This would make the meaning clear.

Amendment put and passed, and the clause, as amended, agreed to.

Clause 9—Any person may purchase liquor for analysis, &c.:

MR. DOHERTY moved, as an amendment, that the words "wholesale or retail" be inserted after the word "premises," in line 2.

Amendment put and passed, and the clause as amended, agreed to.

Clauses 10 to 14, inclusive—agreed to.

Clause 15—The prosecution of a licensed person may be commenced at any time within six months:

MR. GREGORY moved, as an amendment in line 3, that the word "six" be altered to "three," so that a prosecution should be commenced within three months after the offence.

MR. GEORGE: One week should be sufficient time. It was generally in large

towns that any trouble arose, and an analysis of the liquor could be made within a week. The result of allowing three months to elapse would be to afford opportunity for the liquor to be carted away, and it would then be open to the publican to state on oath that the liquor was not his. Three months' delay would only mean a longer period in which the offending publican would be at liberty to poison the people around him.

MR. KINGSMILL: If the suggestion of the member for the Murray were carried out, it would entirely exclude country districts from the benefits of the Bill. Three months would be a short enough period to allow. The farther one travelled from the capital city the worse the liquor became, and it was in the country that this Bill should more especially apply.

Amendment put and passed.

MR. LEAKE: The words "but the summons shall not be made returnable in less than seven days," &c., appeared to be unnecessary, in view of the existing law and practice.

MR. BURT: The object was to give time.

MR. LEAKE: But an adjournment could always be applied for.

MR. JAMES: It would be wiser to leave the clause as it stood. Very often the police made the summonses returnable at too short a notice. In a serious charge of the kind contemplated in this clause, the defendant ought to have full time.

Clause, as amended, agreed to.

Clause 16.—Evidence at the hearing of the information:

MR. JAMES moved, as an amendment, to omit from the clause the words: "And the defendant may, if he think fit, tender himself or herself, and his or her wife or husband, as a witness to be examined on his behalf, and he or she shall be examined accordingly." He said these words were not necessary, in view of the existing Act dealing with the admission of evidence.

Amendment put and passed, and the clause, as amended, agreed to.

Clause 17—agreed to.

Clause 18—Proceedings by indictment and on contracts not to be affected:

MR. GREGORY: Would it not be wise to provide for a stay of proceedings against the publican, until subsequent



proceedings against the merchant had been dealt with?

MR. BURT: That would interfere with the whole scope of the Bill. It did not matter where a publican got the liquor from. The discussion had now got beyond that stage. If adulterated liquor were found on the premises, then the licensee would be fined, and could subsequently sue the merchant.

MR. GREGORY: For the second offence the penalty would be "gaol."

MR. BURT: The committee were not likely to be in favour of stopping a prosecution against a publican, until such time as that publican might have first proceeded against the wholesale merchant.

THE PREMIER: But if the publican were in gaol?

MR. BURT: If the publican were in gaol, it would be for the second offence, and not the first.

MR. LEAKE: The principle of the Bill seemed to be to pass the penalty onward. It would, of course, be impossible to pass the imprisonment on; but if the publican were convicted twice and sent to gaol, it would be possible at the same time to prosecute the wholesale man from whom he had bought the liquor. The original vendor was not relieved; and the chances were that the publican would divulge at once where the liquor had been obtained.

MR. ILLINGWORTH: It was quite competent for a publican to call the spirit merchant as a witness, and in that case it was very improbable that a conviction could be obtained.

MR. JAMES: The words, "the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable," were not a provision of which he could approve. It was undesirable, when a case had been heard in open court and a conviction had been recorded, to re-open the whole question on a suit for damages brought by the publican against the merchant. The hotel-keeper would do his utmost to get rid of the charge, not only to escape the penalty, but to escape the injury which a conviction would do to his reputation. It would be unfair that a publican should have to fight the question over again. A conviction should be conclusive proof that the merchant who had supplied the liquor was liable for damages.

MR. DOHERTY: The inspector would have the option of going to the wholesale house, and if bad liquor was found there, the merchant might be prosecuted and the retail dealer brought in as a witness. The retailer could always protect himself.

MR. JAMES: Suppose the merchant proved he never sold the bad liquor to the publican, then the latter could not recover. Why should the merchant be given a chance of showing that the conviction of the retailer was wrong, when proof of that wrong conviction might merely depend on technical points?

MR. BURT: The publican might not defend himself, but say he got the liquor from A.B., and hand it over at once to the inspector. Then an improper analysis might be conducted, and, but for the words referred to in this clause, the merchant would be bound by the case against the retailer. No doubt it was inconvenient to allow the merchant to raise the whole case again and say the conviction was wrongful; but, on the other hand, not to allow him to do so might work a very serious injustice.

THE PREMIER said this clause would be recommitted, and could be further considered.

Clause put and passed.

Clause 19—agreed to.

Progress reported at this stage, and leave given to sit again.

#### ADJOURNMENT.

The House adjourned at 6:35 p.m. until the next Monday.