

Legislative Council,

Tuesday, 1st March, 1892.

"Hansard" reporting: report of Joint Standing Orders Committee—High School Act Amendment Bill: report of Select Committee Protection of Women and Girls Bill: committee—Public Health Act Amendment Bill: committee—Married Women's Property Bill: second reading—Goldfields Act Amendment Bill: second reading—Adjournment.

THE PRESIDENT took the chair at 3 o'clock.

PRAYERS.

"HANSARD" REPORTING.

REPORT OF JOINT STANDING ORDERS COMMITTEE.

THE HON. J. W. HACKETT brought up the Report of the Joint Standing Orders Committee relative to the reporting and printing of the "Hansard" Parliamentary Debates, and moved, That it be received.

Question—put and passed.

HIGH SCHOOL ACT AMENDMENT BILL.

THE COLONIAL SECRETARY (Hon. G. Shenton) brought up a Progress Report from the Select Committee appointed to consider "The Governors of the High School Appointment Bill," and moved, That it be received.

Question—put and passed.

The report was received and read as follows:—

"PROGRESS REPORT.

"The Select Committee on the 'Governors of High School Appointment Bill.'

"Your Committee, in order to avoid the confusion which would result from the passing of a measure such as that referred to it, which necessitates the partial repeal of the principal Act establishing the High School, and of the first amending Act, recommend that the Bill be withdrawn, and that instructions be given to Your Committee to draft a new Bill altogether, repealing the Acts of 1876 and 1878, and embodying such portions of them as may still be required, with new provisions for the appointment of Governors."

PROTECTION OF WOMEN AND GIRLS BILL.

IN COMMITTEE.

Clauses 1 to 16 were agreed to.

Clause 17—"Any person who carnally knows a woman or girl who is to the knowledge of such person his daughter or other lineal descendant, or his sister, shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the Court to be kept in penal servitude for life, or for any term not less than five years, or to be imprisoned for any term not exceeding two years, with or without hard labor, and with or without whipping. Any person who attempts to have carnal knowledge of a woman or girl who is to the knowledge of such person his daughter or other lineal descendant, or his sister, or assaults any such woman or girl with intent unlawfully and carnally to know her, shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the Court to be kept in penal servitude for any term not exceeding ten years, or to be imprisoned for any term not exceeding two years, with or without hard labor, and with or without whipping".

THE HON. G. W. LEAKE: I move that the words "for life or" in the 8th line be struck out. Although incest is one of the most abominable sins treading on the heels of crime, South Australia is the only part of Her Majesty's dominions in which it is a crime, and, therefore, I am of opinion we should not make the punishment too great—not that I do not think it should be as severe as possible; but I am rather afraid that imprisonment for life will create such a distrust in the minds of juries that they will hesitate to convict. For this reason I propose that the words "for life or" be struck out, and at the end of the clause I propose to add the words: "or whipping only." I see nothing more despicable—more horrible or more disgraceful than the crime of incest; but I believe it is a crime which is rife amongst us. I know of one instance which I can narrate to hon. members privately, although I would hesitate to do it publicly, and there are many others. Of course the crime is punishable by social isolation; but I think those guilty of it should have some really condign punishment

inflicted upon them; but if we go too far we shall fail to secure convictions. If a male (for I will not stoop to use the word man) of this sort commits this offence with a young girl who is a lineal descendant he deserves as severe a punishment as it is possible to give him; but I am very much afraid juries would not convict if the clause is allowed to stand as it is.

THE COLONIAL SECRETARY (Hon. G. Shenton): I regret to say that I cannot accept the amendment of the hon. member; for I think in connection with a crime of this sort the court should have full discretion and power, and if the amendment be carried it will tie the hands of the judges who try the cases. This bill was carefully considered before being sent to this House, and no such amendment was suggested.

THE HON. G. W. LEAKE: My chief motive for proposing this amendment is that we should not provide such a punishment as will cause juries to hesitate before convicting.

THE COLONIAL SECRETARY (Hon. G. Shenton): We must give juries credit for having good common sense, and judges would explain the cases and the powers they have under the statute to them.

THE HON. J. W. HACKETT: I hope no steps will be taken to lessen the severity of this clause. There are cases which have been recently recorded in which the punishment of five years' imprisonment is altogether inadequate. A very short time since a case was brought to light in Victoria, where the father had habitual intercourse with his eldest daughter. Four or five children were the result of this, but as soon as they were born they were put out of the way. And the most terrible feature of this case was that the wife seems to have known what was going on; but either from fear or some other reason, she conspired to keep the whole matter secret. The crime might have continued until now had it not been that a second daughter suffered in the same way and the father then attempted the chastity of the third. This was discovered, and then all these facts came out. I hope, therefore, that nothing will be done to lessen the stringency of this clause, or in the least degree to abate the punishment of penal servitude for life.

Amendment—put and negatived.

THE HON. G. W. LEAKE: I now propose to add the words "or whipping alone."

Amendment—put and declared negatived.

THE HON. G. W. LEAKE called for a division.

The House having divided,—

THE PRESIDENT said: As there is only one "No" there can be no division.

THE COLONIAL SECRETARY (Hon. G. Shenton): I remember in the other House the Speaker stating that a division having been called for must be taken.

THE PRESIDENT: No division can be taken where there is only one on either side.

THE HON. T. BURGESS: I think it would be as well to take the division.

THE COLONIAL SECRETARY (Hon. G. Shenton): I would call attention to the fact that a great deal of time is wasted in this way, and this is not the first time that the hon. gentleman has called for a division and has been alone.

THE PRESIDENT: The Standing Order provides that if there shall only be a single member on either side the division shall not proceed.

Amendment negatived.

The remaining clauses were agreed to without amendment, and the bill reported.

PUBLIC HEALTH ACT AMENDMENT BILL.

This bill was considered in committee and agreed to without amendment.

MARRIED WOMEN'S PROPERTY BILL. SECOND READING.

THE HON. G. W. LEAKE, in moving the second reading of this bill, said: I shall detain the House with very few observations on this measure. It may be within the knowledge of hon. members that the bill has already been passed through the Lower House and is now sent here. The object of it is to render the law with reference to the property of married women precisely in accordance with that of England. The number of

women who are sent adrift in the world to support themselves and their families is well known, and if they accumulated any property, no matter of what kind it may be, it is in the power of the husband to come down upon it. We all know how many families are indebted for their respectability and support, and who are kept from disgrace and shame, by the exertions of the mother; and yet she may work and toil as much as she pleases and the little she gets together becomes the property of the husband and his creditors. I think it will be better to reserve any observations of a particular nature until the bill goes into committee, if it should reach that stage. There are many instances which must be within the knowledge of hon. members which will show how thoroughly an Act of this sort is needed—needed not merely in the interests of married women, but also in the interests of their children. It is not many days ago since letters have appeared in the public papers with reference to an instance of this sort, and surely it must be a great object to enable a married woman to work and accumulate a little property with which to support her children, without allowing it to be taken by a profligate husband or his creditors. I move the second reading of the bill.

Question—put and passed.

THE PRESIDENT: Does the hon. member propose to take the bill into committee now? I may state, for the information of hon. members, that under our Standing Orders, when a bill is read a second time, I should leave the chair and go into committee as of course.

THE COLONIAL SECRETARY (Hon. G. Shenton): I think there has been an understanding that we do not take a bill more than one stage in one day. Last session you, sir, drew my attention to what you termed the "unseemly haste" with which I rushed the bills through, and I have taken care that such an imputation shall not be cast on me again this session.

THE PRESIDENT: That was with reference to the suspension of the Standing Orders, and did not apply to a matter of this kind.

THE HON. G. W. LEAKE: I move that the bill be taken into committee at the next sitting of the House.

Question—put and passed.

GOLDFIELDS ACT AMENDMENT BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Shenton): I now move the second reading of this bill. One reason why the bill is brought in is to confirm the Act of 1886 as to certain doubts which have arisen as to its validity. Another reason for the bill is to provide that no miners' right or lease shall be granted to any Asiatic or African alien, it being considered by the Government that these races should not have the same privileges under the Goldfields Act as Europeans.

THE HON. J. MORRISON: Might I ask the hon. the Colonial Secretary how Europeans under this bill are to employ colored labor in the mines, if necessary, at the North.

THE COLONIAL SECRETARY (Hon. G. Shenton): The bill only provides that no Asiatic shall be allowed to take out a miners' right; but there is nothing to prevent Europeans from employing them as miners.

THE HON. J. MORRISON: Under the present law every man working in a mine must have a miner's right.

THE HON. E. T. HOOLEY: He cannot work without one.

THE PRESIDENT: Hon. members must not ask questions in this way at this stage of the bill.

THE COLONIAL SECRETARY (Hon. G. Shenton): I shall be prepared to answer the hon. member when the bill is in committee. I now move that the bill be read a second time.

Question—put and passed.

ADJOURNMENT.

The House, at 3.40 o'clock, p.m., adjourned until Thursday, 3rd March, at 8 o'clock p.m.