

toral district to something like two months.

THE ATTORNEY GENERAL (Hon. S. Burt) said there was a danger in asking for more than they could obtain all at once. Of course a man could vote only when there was an election, and as to the great anxiety to get a vote, a man would be inclined to say, "What is the good of my being on the roll, after waiting so long, when there is no election, and I cannot use my vote now that I have got it?"

MR. CLARKSON preferred the qualification in the Bill, and would even support a longer term than 12 months.

MR. QUINLAN supported the amendment.

The committee divided on the amendment, with the following result:—

Ayes	...	10
Noes	...	17

Majority against 7

AYES.  
Mr. A. Forrest  
Mr. Molloy  
Mr. Monger  
Mr. Pearse  
Mr. Quinlan  
Mr. R. F. Sholl  
Mr. Simpson  
Mr. Solomon  
Mr. Traylen  
Mr. DeHamel (Teller).

NOES.  
Mr. Burt  
Mr. Clarkson  
Mr. Cookworthy  
Mr. Darlôt  
Mr. Harper  
Mr. Hassell  
Mr. Lefroy  
Mr. Loton  
Mr. Marmion  
Mr. Paterson  
Mr. Phillips  
Mr. Piesse  
Mr. Richardson  
Mr. H. W. Sholl  
Sir J. G. Lee Steere  
Mr. Venn  
Sir John Forrest (Teller).

Amendment negatived, and the clause passed.

Progress was reported, and leave given to sit again.

#### REFERENCE TO SELECT COMMITTEE OF SCHEDULE OF CONSTITUTION ACT AMENDMENT BILL.

THE PREMIER (Hon. Sir J. Forrest), by leave and without notice, moved, "That a select committee be appointed to report as to the boundaries which they recommend should be adopted for the various electoral districts mentioned in sub-clauses 2 and 3 of clause 15 in the Bill to amend the Constitution Act."

Question—put and passed.

A ballot having been taken, the following members, in addition to the mover, were elected to serve upon the committee:—Mr. Loton, Mr. Simpson, Mr. A. Forrest, and Mr. Harper; and it

was ordered that the committee have power to call for persons and papers, and to report on Wednesday, 7th December.

#### ADJOURNMENT.

The House adjourned at 11.50 p.m.

### Legislative Council, Friday, 2nd December, 1892.

Land Regulations Amendment Bill: second reading—  
Treasury Bills Bill: committee; Bill withdrawn—  
Adjournment.

THE PRESIDENT (Hon. G. Shenton) took the chair at 3 o'clock.

#### PRAYERS.

#### LAND REGULATIONS AMENDMENT BILL.

##### SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker), in moving the second reading of this Bill, said: I have no doubt it is in the recollection of hon. members that a considerable discussion took place last session, not only in this House but also in the House of Assembly, on the subject of making some concession to those settlers who have suffered most severely by the drought which was experienced for some 12 or 18 months at the North. We know, sir, that not only was the matter debated at great length in the Lower House, but resolutions were passed urging the Government either to make some reduction in the rents at the present time or some reduction in the future rents, so as to enable the settlers to tide over their difficulties. We are fully aware that these settlers deserve well of the country. We know that at the risk of their lives they have been developing and opening up new territory; they have experienced great hardships, and have undergone them manfully. Unfortunately, during the last two years, which ended about March last, they

experienced such a drought as has hitherto been unknown in Australia—a drought which caused the loss, I believe, of nearly half the stock owned by the settlers. As we can well imagine, these losses have reduced many of the settlers from a state of comparative wealth to a position very near akin to poverty; and as they are leaseholders of the Crown, it has been deemed advisable by the Government to offer them some assistance. By the Land Regulations under which they hold their leases, it is provided that after a certain term the rents should be increased, and no doubt had it not been for the great losses to which I have referred, the settlers would have cheerfully paid the increased amounts; but, under the circumstances, the Government has deemed it advisable to assist those men who deserve so well of their country by making certain reductions. With this end in view this Bill is brought in. It is provided that in the Gascoyne, North, and West Kimberley districts, the rent for each 1,000 acres of land shall be 10s. for the whole term of the lease, that is that the present rentals shall not be increased. In the Eastern division the rental is 2s. 6d. for each 1,000 acres for the first seven years, and 5s. for the remainder of the lease. There are also further provisions, which I need not mention at this stage, the main principle of the Bill being, as I have said, to assist those settlers who have suffered through no fault of their own, and enable them to recover themselves from the losses they have sustained.

THE HON. E. T. HOOLEY: I have much pleasure in seconding the motion for the second reading of this Bill. The Hon. the Colonial Secretary says that the settlers have suffered for twelve or eighteen months from the drought, but in making that statement he is not correct. I know a little more about this matter, I think, than the hon. gentleman; and I may tell members that the drought which has just broken up lasted for a period of two years in some parts to two years and ten months in others. In one locality, I know, there was not a shower of rain during the whole of that period, and at one station the number of sheep was reduced from 41,000 to 5,100, and this is only what has occurred in many instances. A little while ago I took some trouble in sending round to the settlers

and asking them to let me have a return of the losses which had been sustained. In the document sent round to the various stations we asked for returns of the number of sheep shorn and the number of bales of wool obtained in 1890 and also in 1892. In a great many instances replies have not yet been received, but for the Northern and Gascoyne districts the figures have been pretty accurately compiled. These show that for the year 1890 the number of sheep shorn was 826,652, and the proportion of lambs dropped but not shorn, and which may be estimated at 10 per cent., brought the total up to 909,252. The sheep shorn in 1892 numbered 451,470, showing a deficiency of 457,782. In 1890 the number of bales of wool sent down was 9,675, and in 1892 4,326, or a deficiency for the latter year of 5,249 bales. When the discussion on this question took place some time ago it was stated that the rents were merely nominal, and that if any concession were made only a few people would be affected. I have since calculated the amount of rents paid by the settlers who have sent in their returns to me, and I make it £12,598, which cannot by any means be said to be small. It must be remembered that the settlers have not only lost their stock, but there has been a great depreciation in the price of wool. Besides this, the country which before the drought was worth 10s. per 1,000 acres, has by the drought been reduced in value to the extent of at least 40 or 50 per cent., and for my part, I am afraid that the country will never recover. In some districts I am certain it will never again be what it was before the drought, and hence there will be great difficulty in bringing about sufficient confidence to induce people to re-stock. I need not say much more, except to add that I am glad that the Government are doing their best to tide the settlers over their difficulties, for in helping them they are not assisting, as has been said, one class, but are benefiting the whole country. If anyone will make inquiries from the tradesmen of Perth and Fremantle, he will find that they complain that no orders have lately come from the North-West, and if we look at the shipping we see steamers, which a year or two back went North fully laden, half

empty and carrying ballast. All this shows a great falling off in trade, and a great part of it is due to the drought which has been experienced right through the Northern districts.

**THE HON. T. BURGESS:** When the present Land Regulations were passed it was thought that the North-West and Gascoyne districts were capable of paying an increased rental after the first seven years of the leases. At that time everything connected with the pastoral industry was at its highest point. Wool was high, and trade generally was good. Stations at that time were worth 50 per cent. more than they are now, and generally it was thought that the increased rentals, which this Bill is intended to prevent, could be borne by the settlers. The drought, however, which has recently occurred has proved most conclusively that the country is not worth what we previously thought it was. The figures just quoted by the Hon. Mr. Hooley show how enormous the losses have been, and there is no doubt that it will take the settlers the remainder of the term of their leases to retrieve themselves. Under such circumstances, I think the Government are acting wisely and properly in introducing this Bill. Owing to the drought the liabilities of the settlers are very great, and it would have been very rash on the part of the Government had they insisted on the increased rentals. The Bill now before the House will greatly assist them, besides being of great benefit to the country, and I have much pleasure in supporting it.

**THE HON. J. MORRISON:** To be consistent, I feel bound to state that I cannot vote for this Bill. Personally, I should like to assist the settlers all I could, but as a member of this House I owe a duty to the country at large, and I cannot support what I may almost call class legislation. I have objected to helping one class of business against another before, and I must do so again. The Government commence by guaranteeing money to a railway company in difficulties, and now they propose to reduce the rents of these leases which, when taken up, were considered fair. No doubt a severe drought has occurred, but it is the first of any consequence that has been known in this colony. Other colonies have often been beset with similar calamities, but we have never yet

heard of the rents being reduced, or of any other aid being given to the squatters. I simply object to this Bill on principle, and because I do not see where this class of legislation is going to end. There is another way of looking at the matter. Suppose it had been found that some of these runs, which were calculated to carry 100,000 sheep, had been able to carry five times the number, is it likely that any increased rent would have been asked? If not, why should there be a decrease because the converse happens? In reducing these rents we must also have some consideration for our outside creditors. The Premier on the 4th February, 1891, said that we might calculate upon a large increase under the head of rents from those pastoral leases, which would soon be in their second term. Those who subscribed to our loans must take such an expression as this into account when lending their money, and it is, therefore, not fair to them that we should now reduce the rents. And again, I fail to see that the reductions will give to the settlers any benefit of importance whatever. I find that the total loss to the country (and this, of course, would be the gain to the settlers) by the remission in the Gascoyne district during the 14 years of the lease, after the first seven years have run, would be £2 12s. 6d. per 1,000 acres; in the Eucla Division, £2 12s. 6d.; in the North-West Division, £5 5s.; in the Eastern Division, 17s. 6d.; and in the Kimberley Division, 5s. I do not for one moment imagine that this is going to make the settlers. I do not think the benefits are going to be anything like what is anticipated, nor do I think this is the right kind of legislation for the colony to go into. I cannot, therefore, support the Bill.

**THE HON. M. GRANT:** Such a drought as has recently occurred has never been known in this colony before, and the country will take many years before it gets back to its old carrying powers. At the time the Regulations of 1887 were passed the country was hardly known. It was not like an old established farming district; it had no history. It was peopled by blacks, and the trials and vicissitudes that were gone through by the settlers were considerably more than had to be endured by the pioneers in any other part of Australia. Since this

drought we find that the country is not worth what we pay for it, and there is a most dreary outlook. Even now the drought has not entirely passed away. Taking all these things into consideration, it is only reasonable that a reduction of the rents should be made, although the settlers did not like asking for it. We do not, however, beg for it. We are too proud for that; we do not like it. I would not ask for it myself. I would sooner die first; but the Government has come forward in a most liberal and kind way, and I compliment them for what they have done. I am sorry to say that even with this there is such a miserable and dreary prospect in the North that I am afraid the concession will not do as much good as the Government anticipate. The drought lasted not two years, but three, and in parts it is continuing now, and some of our best men are being brought to the brink of ruin by it. Even if they are enabled by this reduction and the aid of the financial institutions to retain their holdings, they will have to begin again. The country since the drought has become poor and miserable, and it will be five or ten years before it is capable of carrying the sheep it did before. The grass has died away completely, and it will take many years before the country will get back into its old pristine condition. I hope, therefore, that every consideration will be given to this Bill.

THE HON. G. GLYDE: I, too, am pleased to find that the Government has introduced this Bill, for it is in the interests of the colony that the Northern settlers should be prosperous. They work hard, and endure great hardships, and when calamity overtakes them we should do all we can to assist them.

Question—That the Bill be now read a second time—put and passed.

#### TREASURY BILLS BILL.

##### IN COMMITTEE.

Clause 1—put.

THE HON. J. W. HACKETT: I am rather in a difficulty as to how to proceed with regard to the proposition I intend to make, namely, that the sum of £836,000, referred to in this Bill, be reduced to £436,000. Perhaps it might be more convenient if a motion of this

kind were made at the end of the Bill, although the discussion upon it might take place on the first clause, because if that be passed without any objection being raised to it, it may be taken that we assent to it.

THE CHAIRMAN (Hon. G. Shenton): The procedure I think best to adopt is for the hon. member to move a suggestion to the Legislative Assembly, and then the matter can be discussed.

THE HON. J. W. HACKETT: The Hon. the Colonial Secretary has no objection to the discussion now?

THE COLONIAL SECRETARY (Hon. S. H. Parker): No, although it might be better to go through the Bill first and make the suggestion at the end.

THE HON. J. W. HACKETT: If we adopt that course it may be taken that we are assenting to this clause. I can only agree to let it go on the understanding that it does not prejudice the resolution I am about to move, namely, that this Bill be referred to the Legislative Assembly, with the suggestion that the £836,000 referred to in clause 1 be reduced to £436,000.

THE CHAIRMAN (Hon. G. Shenton): Better move it now, in the form that it be a suggestion to the Legislative Assembly that in clause one the word "eight" be struck out and the word "four" inserted in lieu thereof.

THE HON. J. W. HACKETT: Then I will proceed with my argument. I rise, sir, to move this resolution with a full and even nervous sense of the importance of this question both to this House and to the Parliament of Western Australia, and I cannot avoid expressing my pain that this matter has been thrust in upon us at this early stage of our existence, and should have been brought in also, as I shall venture to describe it, with a gratuitous force by the Hon. the Colonial Secretary. It seems to me that if he wished to carry out his promise, made to us some time ago, that when in committee he would move to reduce this amount from £836,000 to £436,000, and found himself unable to do it, he should have consulted the members of this House as to what in their opinion and in the opinion of the President would be most agreeable to them and most in consonance with the Constitutional practice, and then to have placed these views before the

House and before the body of Ministers he represents. I cannot avoid expressing a sense of mortification that we should have been asked, at this early stage, to stultify ourselves to the extent of declaring that we are not possessed of the elementary right inherent in all legislative bodies—certainly each Chamber in Australia and England—and find denied to us the opportunity of suggesting a change in a Bill which we are told must be altered, if the intention of the Government is to be carried out. What are the plain facts? A Bill is brought in to authorise the issue of Treasury bonds to the extent of £836,000, and that sum is made chargeable on moneys of the Loan Act of 1891; but under that Act there only remains £436,000 to be raised; and hence it is impossible that £836,000 can be chargeable upon a sum which is little more than half. It is obvious, therefore, that the amount must be reduced. Putting the Constitutional question aside, I ask: what is the simplest way of dealing with this matter? and I reply, without the slightest hesitation, that it is by amending the first clause of the Bill while it is going through this Council. The Hon. the Colonial Secretary, by not taking the course he promised, virtually says that we cannot amend this Bill; but I should like to know his reasons, for the essential concomitant in all Money and Supply Bills—the free gift preamble—is absent here. I do not, however, attach much importance to it myself, but in its absence I should like the Hon. the Colonial Secretary to explain to us why we should be denied the right of making any communication to the other House as to an alteration he admits to be necessary, and which if passed by us without any alteration being made to it, would only make us appear ridiculous. I understand that the Hon. the Colonial Secretary depends principally on the views of the authority I quoted in this House some two years ago—Mr. Alpheus Todd—a gentleman who has written two excellent works on Parliamentary government. I am, however, free to confess that I have a slight recantation to make with regard to this gentleman. It is now nearly two years since I had occasion to refer to Mr. Todd, and I admit I accepted the authority of that gentleman in a more unqualified way than further consideration—and I have given

the matter great consideration since then—leads me to suppose I was justified in doing. And even in that case I may recall the attention of the House to the fact that the circumstances were then peculiar. The motion then before us seemed to me to amount to a claim of the right to amend a Money Bill—the Loan Bill which was before the House—in every particular, that is, it was to be split up into various items. This, however, is quite a different matter; but I will go further and say that an examination of *Todd* leads me to understand why that gentleman's authority has never been permitted to stand unchallenged in the other colonies, and why it is that Legislative Councils which exist on much the same basis as ours have denied the view he has taken of their rights as being unconstitutional by statute or by precedent. Unless, however, the Hon. the Colonial Secretary intends to make a lengthened allusion to this matter, I will not go further into it.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I am not going to quote *Todd*.

THE HON. J. W. HACKETT: Then I will confine my remarks only to a few further words on the subject. The only experience Mr. Todd has had of nominated Upper Houses is in regard to the Upper House of Canada, and the hereditary House of the United Kingdom, and therefore he is practically unfitted to advise us as to Constitutional practice, because he has been altogether outside the vigorous political life which has been a marked feature in Australia ever since these colonies entered into the possession of Responsible Government. He cannot understand an Upper House (and so he writes of it all through his book) claiming any other privileges than those claimed by the House of Lords. I only wish we had the privileges of the House of Lords here. In some instances we have not the privileges of the House of Lords, but in others we have had conferred upon us a large number of privileges they have not. If the Hon. the Colonial Secretary will examine Mr. Todd's book he will find that all the arguments that gentleman uses are those of the Lower Houses in the Australian colonies. At page 479 he says: "The relative rights of both Houses in matters of aid and supply must be de-

terminated in every British colony by the ascertained rules of Constitutional practice." Then he says it is therefore impossible that an Assembly would concede to an Upper Chamber the right of considering a Money Bill upon the mere authority of a local statute when such Act admits of being construed in accordance with the well understood laws and usages of the Imperial Parliament. In support of this (and hon. members will hardly realise it) he cites as his authority for this in a note the following: "For a statement of the respective Constitutional rights of the two Houses in matters of supply, see a report of a committee of the Legislative Assembly of Victoria during the Berry troubles in 1877." It is there that Mr. Todd goes for the foundation of his Constitutional practice—a practice established at a time which many look back to with shame, and which can never be quoted to the advantage of the Legislative Assembly of that colony. Then at page 475 he says: "But whether constituted by nomination or election, the Upper House in every British colony is established for the sole purpose of fulfilling therein the legislative functions of the House of Lords, whilst the Lower House exercises within the same sphere the rights and powers of the House of Commons." His support of this contention is derived from the practice of British North America and places of that kind. What I wish to draw attention to is the use of the words, "whether constituted by nomination or election," and yet a few pages afterwards he says that in South Australia and Tasmania the right of the Upper Houses to propose amendments to Bills of Supply has been partially allowed by the Lower Houses, and this after the sweeping assertion previously made to the contrary. "But in Victoria," he goes on to say, "the strictest limitation of the powers of the Upper Chamber has been insisted upon (as will be presently shown) in conformity with the Constitutional practice of the Imperial Parliament." No one should have known better than Mr. Todd that the right to amend Money Bills and Bills of Supply was deliberately taken away in Victoria by express statute. I will show a little later on that the Victorian Upper House has been able to treat even this direction as so much waste

paper, and has succeeded in her claim to amend as she pleases by one of the many methods open where one Chamber is allowed to communicate with another. I find, however, that the stress which is usually laid on the precedent of analogy between the Constitutional practice of the House of Lords and the Upper Houses of the colonies, and the House of Commons and the Lower Houses of the colonies, demands something more than a mere sentence in reply. I do hope that if the Hon. the Colonial Secretary does argue this matter, he will consider it of sufficient importance to give us solid grounds for the position he asks us to take up. I should like him to prove, firstly, the proposition that the House of Lords has absolutely surrendered its privilege of amendment, or of obtaining an amendment, and, secondly, if it has surrendered its right that the analogy between that House and the Legislative Council of Western Australia is complete and conclusive. How can it be said for one second that we are bound by the practice of the House of Lords? The whole Constitution of that great country, from which we are proud to derive our origin, both by birth and by Constitutional rights, is founded not on written, as ours is, but on unwritten law. These precedents and the practice have grown up century by century. There was a time when the House of Lords was the sole legislative body in England, and it then granted all Supplies. Now precedent and practice has taken that right away, but in years to come precedent and practice may give it back again; and are we, I ask, to be dragged backward and forward on the chariot wheels of these precedents and practices, when we have the stable authorities of the statutes of the United Kingdom and our own Legislature? There appears to me to be nothing more absurd than to contend that a written Constitution must be interpreted in accord with the ephemeral custom and practice of another House, and which is not alluded to in our own Constitution. It is a remarkable fact that those who assert that the House of Lords has surrendered its privilege of pointing out inaccuracies in Money Bills and exercising the right to demand their amendment will find a great Constitutional authority—Sir Erskine May—against them. That

eminent authority, in his work on Parliamentary practice, which has never been questioned, says: "When any amendments of the Lords, though not strictly regular, do not appear materially to infringe the privileges of the Commons, it has been usual to agree to them, with special entries in the journal, as that 'they were only for the purpose of making the dates uniform in the Bill;,' that 'they only filled up blanks which had not been filled;,' that 'they were for the purpose of rectifying clerical errors;,' or 'were merely verbal;,' 'were in furtherance of the intention of the House of Commons;,' 'to render one clause consistent with another.'" The intention of the Legislative Assembly can be easily gathered from this Bill, or, if not, we have the express language of the Colonial Secretary on the second reading. Again, we wish to make "one clause consistent with another," that is we wish to make clause 1 agree with clause 5; and, without any of these fine-spun Constitutional theories, I ask hon. members to do it in the most simple and expedient manner for both Houses. We must remember that Mr. Todd has dwelt at length, after saying that no Upper House, nominated or elected, could claim this privilege, on the fact that in South Australia and Tasmania the claim has been partially allowed by the Lower House. Further on he says that "in certain British colonies—as, for example, in South Australia, Tasmania, Victoria, and the Cape of Good Hope—the Legislative Council is elective, whilst generally the system of nomination prevails. The elective Councils have plausibly urged that in accordance with the practice in the United States, where in Congress and in the different State Legislatures, while the Constitution requires that tax Bills shall originate in the lower branch, it is customary to provide that the Senate or first branch may concur therein with amendments, as in other Bills, they ought to be at liberty to propose amendments to Bills of Supply." Then he goes on to mention that in Tasmania the elective Council is permitted to amend Money Bills, even Bills of Appropriation. I hope hon. members will remember that it is Tasmania I am speaking of now. I do not wish to weary the House, but I must point out the extraordinary incon-

sistency of the gentleman I was so foolish as to quote with more respect than he deserved, two years ago. Let it not be forgotten that we stand here in a peculiar position. It is true we are a nominated House, but it is also a fact that we are guarding the portals and keeping the seats in readiness for our successors, who in the ordinary course of law will take our places in about six months' time. We are really on the threshold of an Upper House, the elective principle of which is suspended for a short time—at most five or six months. It is, therefore, not our own case we have to think about, but the case of our successors, and every concession we make now, every surrender we are induced to submit to, will tell with fatal force against them, and will be used as a heavy-handed sledge with which to beat down their claims and their rights and privileges. I say, without any feeling of doubt whatever, that this claim to amend Money Bills sent up by the Lower House has never been disputed by the majority of any Upper House except in the case of Victoria; that is to say, no Upper House has ever surrendered its right and privilege of amending in the way they think best Bills, of whatever character they may be, that come from the Lower House, except the Upper House I have mentioned, and that only under the peculiar terms of the section which governs her practice. I pass away from the nominated House for the moment; although I might suggest that the Upper House of Victoria has found a very pertinent and decisive way of acting when she wishes her amendments made, not only in Bills of Supply, or Bills imposing a tax, or in Bills of an anomalous character, such as substituting Treasury bonds for the usual method of raising money by loan, but also with regard to the Appropriation Act itself. Would it be believed that, although forbidden to amend Money Bills, or the Appropriation Bill, the Victorian Upper House, which seems to be more bound down by statute than any other Upper House, has been able to effect her amendments upon more than one occasion? I ought to tell hon. members that so long as we allow communication between the two Houses, we cannot by any words put in an Act of Parliament prevent the Upper House

from taking advantage of this power, and insisting on altering any Bill of supply or taxation, or any Bill of Appropriation. The latest case is that of Victoria, in 1877, and which Mr. Todd cites as an example. An Appropriation Act was sent to the Upper House of Victoria, which contained a clause for the remuneration of members, which the Upper House objected to. They declined to pass it, and the end was that the item was taken out, and the Act was sent up without it, and duly passed by the Legislative Council. And this is a House that is bound and tethered as is no other Upper House in Australasia. The elected Upper House in South Australia has attained the same end by another course. It simply passes the Bill up to a certain stage, and then returns it to the Lower House, with a suggestion that such an alteration should be made. If made, the Bill passes, and if not the Upper House considers whether it will reject the Bill or not; and instances have been known where the Upper House has declined to consider a Bill unless its amendments are made, or the objectionable portions taken out. In Tasmania a degree of power and privilege exists which is not admitted by the Assembly of any other colony. "In Tasmania," our prejudiced friend, Mr. Alpheus Todd, says, "the elective Council is also permitted to amend Money Bills, even the annual Bills of Appropriation." I was puzzled to know why this privilege, which was disputed in every other colony, existed, and after a long time I came upon a discovery I may describe as simply remarkable. The Tasmanian Constitution Act commences by stating that in granting a double-chambered Constitution to Tasmania, the two Houses shall have all the powers and rights of the old Legislative Council. It is an exceedingly remarkable fact that in none of the Constitution Acts of the other colonies, with the exception of one, which I shall come to presently, are these words inserted. Nothing is said in these statutes of the devolution of the powers of the old Council into whose shoes the new Houses step. But it is a remarkable fact, as I have already said, that precisely the same words are to be found in only one of the Constitution Acts of the other colonies, and that is the Constitution Act

of Western Australia. The second section of our Act says:—"There shall be, in place of the Legislative Council now subsisting, a Legislative Council and a Legislative Assembly . . . and such Council and Assembly shall, subject to the provisions of this Act, have all the powers and functions of the now subsisting Legislative Council." We cannot possibly retreat from the position I hope we shall take up, and I hope that we shall claim and exercise, as far as we shall be permitted, the rights and privileges of the old Legislative Council. It had, however, the right to amend Money Bills and initiate them, although this latter power has been taken away by the express terms of the statute. This affords an absolutely unanswerable body of precedent, of statute law and inference in connection with this claim, to show that at all events we should have the right to indicate to the Lower House any mistake that has been made, and to ask for their co-operation in putting it right, for I do not wish to press, under present circumstances, the full claim to amend. What I ask is that we shall take a step which is only half way, and send down to the Lower House a suggestion following the precedent we established two years ago, and which I invite this committee to adopt a second time. We do not ask to amend, but simply that we shall send down a suggestion in order that the Bill may be made consistent, and thus save ourselves from the charge of being blind and deaf and stupid. The Hon. the Colonial Secretary has offered to assist us, but I could hardly believe my ears when I heard of the manner in which he proposed to do it. I can only hope, if he persists in the course he has indicated, this House will give him such a lesson on constitutional practice that he will never attempt anything of the kind again. What does he suggest? Not that this House shall be allowed to make what is admittedly a necessary alteration, but that the Crown, which has been deprived of all similar power for many generations past, shall be permitted to do it. In other words, it means that this House is so deficient in common sense and public spirit, so deficient in respect for our public rights, and in regard to the position we desire to be held in by the world,



that we absolutely agree to what I shall call a ridiculous Bill, in the trust that the Crown may amend this Money Bill. I hope the Hon. the Colonial Secretary will give us the grounds on which he will go to the Crown, instead of allowing this House to do what it has a perfect right to do, and that which, I say, without laying very great stress upon the ability of this committee, we are perfectly competent to do. I now move, sir, that this Bill be returned to the Legislative Assembly, in order that this false amount may be struck out and the true amount inserted.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I have no intention, sir, of following the hon. gentleman into the realms of oratory into which he has flown, but shall content myself with saying a few words on the point as to whether this House is intelligent enough to substitute the word "four" for "eight" in the first clause. Firstly, the hon. member says that the Bill is a ridiculous one. There is nothing ridiculous about it. When it was first introduced there was a balance of £836,000, which had not been raised under the Loan Act of 1891, and which sum the Government asked leave to raise by way of Treasury bills, and one section of the Bill shows (although £836,000 is the amount named) that only the balance available under the Loan Act I have mentioned can be raised. It is, therefore, a matter of indifference whether the Bill passes for £836,000 or £436,000. Anyone with any sense can read the Bill. There is nothing ridiculous about it, and no one of ordinary intelligence can read it to mean otherwise than that the Government is to have the power to raise the balance of the Loan by means of Treasury bills. It might pass both Houses as it stands and obtain the assent of the Governor, without incurring any odium on the Parliament which passed it. The hon. gentleman claims that we have power to amend Money Bills. Now, if hon. members will refer to one portion of the measure they will see that the rate of interest may be anything up to 5 per cent., and, therefore, it may be that this Bill will necessitate the imposition of fresh taxation on the people. It is clearly, then, a Money Bill, and hence comes within that principle which is usually

held to be a correct one, namely, that an Upper House has no right to amend it. I understand the hon. gentleman to say that this House has the right to amend such a Bill; but whether he goes so far as this or not is immaterial, because if we adopt his suggestion and return this Bill to the Legislative Assembly for the purpose of having "eight" altered to "four," it is virtually amending it—if not directly, certainly indirectly. I believe, however, he goes further than this, and claims that this House has power to amend, and I agree with the hon. gentleman that he must go that far before he can logically and consistently ask the House to adopt the resolution he has submitted, for unless it be so, then we have no power to adopt this resolution and send it to the Assembly. Of course this House has power to pass anything it thinks proper, but what I desire to impress upon hon. members is that there is nothing to be gained by coming into conflict with the Lower House unless we are confident of victory. Some two years ago a similar resolution was passed by this House, at the instance of the Hon. Mr. Wright. He proposed: "That it be made a suggestion to the Legislative Assembly that each item in the schedule of this (the Loan Bill, 1891) Bill be made the subject of a separate Loan Estimate, and the Council desires the concurrence of the Legislative Assembly in its suggestion." The hon. gentleman seemed to contend that there was some difference between this resolution and the one he now proposes; but if we go on the broad question of whether we have power to amend, there is no difference at all, and, as I have already pointed out, the hon. gentleman must go as far as to assert that we have this power before he can consistently ask the House to pass this resolution.

THE HON. J. W. HACKETT: Do you deny the power?

THE COLONIAL SECRETARY (Hon. S. H. Parker): I shall say presently. I am not going to quote *Todd*, but it may be interesting to hon. members to know that when the Hon. Mr. Wright's motion was before the House, there was no one more antagonistic to it than the Hon. Mr. Hackett. I have a stronger authority than Mr. Todd. I have the hon. member himself. In February, 1891, he said: "I was sorry, when I came to this House to-

night, to find that we were at this early stage of our existence going to have a fight. I am sorry to have to use the expression 'fight' in the first session of this Parliament, for I had hoped that we should have profited by the long history of the other colonies, in which these questions between the two Houses of the Legislature have been frequently fought out. I am afraid, however, that unless better counsels prevail we shall find ourselves launched on a constitutional struggle, which I entreat hon. members of this House to believe (and I speak in no spirit of derogation to their rights) will leave the Legislative Council of Western Australia in a considerably worse position than it holds at present.

There is no principle better laid down with regard to nominated Upper Houses dealing with Money Bills than that they must accept or reject them as a whole. They cannot amend. This principle is clearly laid down in a book which is no doubt familiar to most hon. members—'Todd on Parliamentary Government.' It appears, therefore, sir, that the right of this House in regard to Money Bills is that it can accept or reject, but cannot amend. It will be observed from the wording, this resolution provides that instead of the Loan Bill or Estimates being sent up as a whole they shall be sent up as separate items; in other words, to give us an absolute control over Money Bills and Estimates, and enable us to throw out one or more of the items without interfering with the general scheme of finance. In asking us to accept this resolution, or suggestion, as it is called, the Hon. Mr. Wright is asking us to take a step for which there is no precedent in any nominated Upper Chamber in the British Empire. He claims for this House what is, however desirable it may be, an unconstitutional practice—a practice which we need never dream will be conceded to us by another place. It is claiming equal authority with the other House, which consists of the representatives of the people. If pressed, what will be the consequence? We must know what stares us in the face. It is defeat—defeat pure and simple. Anyone who has read the history of the other colonies, or who is familiar with the history of the mother country"—I cannot think that the hon. gentleman

has so changed since he uttered these words—"or who has given the most cursory attention to the text books on the subject"—surely the hon. member had mastered this before he made that speech—"will know that such a claim is not only extraordinary but one of an unprecedented character. I do not blame my hon. friend if he thinks he can create a second Assembly; but if the attempt fails, what will be the result? I say if this be carried, our position in making a fight, and to that it may come, will be inexpressibly weakened at the present time. If we are defeated (and does any hon. member as a reasonable man suppose that we shall not be?) I say that the worst enemies to the privileges of this House"—I hope the hon. member will pay attention to this—"and to the due and cautious control we should exercise over the legislation and finances of this country, will be the hon. gentleman who has moved this resolution in a primary degree, and, in a secondary degree, those members who vote for it." I repeat that, from my acquaintance with the hon. gentleman, I feel sure that his knowledge of constitutional law and constitutional history has not been gained since he uttered these remarks. And I feel sure that in February, 1891, he uttered them with the same force and effect and with the same feeling as to their undoubted truth and authority as he has in the very forcible speech he has made to-day. As I have said, I do not intend to quote Todd. I do not rely on Todd, neither do I rely on the hon. gentleman as an authority, but I do rely, firstly, on the practice of the Imperial Parliament, and secondly, and still more so, on the decision of the Privy Council. In the Imperial Parliament, notwithstanding the few quotations which the hon. gentleman has given us from *May*, it is undoubted that the House of Lords has no power to amend Money Bills, or make or impose taxation, or reduce or increase any charge upon the people. Whatever may have been the power of the House of Lords in the past it has nothing to do with the present time. In South Australia it is quite true that the Upper House makes suggestions in regard to Money Bills, and which is virtually amending them, but that is in consequence of a special compact which

was arrived at between the two Houses years ago and which has since been faithfully kept. In Tasmania the Lower House never disputed the right of the Upper House to make suggestions. In Queensland, where the two Houses are constituted similarly to ours—the Lower House being elected and the Upper House nominated—a conflict arose some two years ago in consequence of the Upper House having asserted its right to amend a Money Bill. There was a deadlock. I ask hon. members to remember that this is a Money Bill and that the Constitution of Queensland is similar to our own. Although our Act does not specially provide against the Upper House amending Money Bills, the 66th section says: "All bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering or repealing, any rate, tax, duty, or impost, shall originate in the Legislative Assembly." These words are almost analogous to those used in the Constitution Act of Queensland. We have nothing which specially prohibits the Upper House from amending a Money Bill, neither has Queensland.

THE HON. J. W. HACKETT: How did Queensland get her Constitution?

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not propose to go so far back as that.

THE HON. J. W. HACKETT: It makes all the difference.

THE COLONIAL SECRETARY (Hon. S. H. Parker): As I have said, the limitation of the powers conferred on the Queensland Upper House with regard to the amendment of Money Bills is analogous to ours, and, as I have stated, the two Houses came into conflict. The matter was referred eventually to the Privy Council, and they declared that the Upper House had no power to amend a Money Bill, and upon that decision the Queensland Parliament consented to act. Again, this matter was discussed two years ago at what I think was called the National Convention, and hon. members will find that it was almost unanimously conceded by those gentlemen who took part in the debate, and who were the leading statesmen in Australia, that one House only must be responsible for the finances, and that that House alone should have the power of imposing any charge upon the people.

THE HON. J. W. HACKETT: Is the hon. gentleman going to continue this? He is mistaken in what he says, for so far as their being unanimous, the unanimity was the other way. Five delegates of Victoria and two of New South Wales held out against all the other delegates, and a compromise was effected.

THE COLONIAL SECRETARY (Hon. S. H. Parker): The unanimous feeling at this conference, or perhaps I should say the feeling of the majority, was as I have stated.

THE HON. J. W. HACKETT: It was not, I assure you.

THE COLONIAL SECRETARY (Hon. S. H. Parker): As far as I can gather the feeling was that one House—the House representing the people—should be responsible for the taxation and the imposition of charges upon the people, and I take it from reading the debates that that is the almost universal practice of the other colonies, except South Australia and Tasmania. In order, however, to set the matter absolutely at rest, and in order that there should be no disputes in future, it was decided that if a Federal Parliament was to be formed a provision should be inserted in the Constitution Bill giving power to the Upper House or Senate to send back Money Bills, with suggestions; and that is the course the hon. member wishes us to take now without any such provision in our Constitution Act.

THE HON. J. W. HACKETT: We do not want it.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I suggested a very reasonable mode of arriving at a settlement of this question. We know that an amendment of the Constitution Act is to come before this House, and then it will be quite competent for hon. members to insert a similar provision to that contained in the Bill passed by the Convention to which I have alluded, a provision giving this House power to send back Money Bills, with suggestions. I cannot but think that the wiser course is to pass this Bill as it stands than to raise the question when we are certain to be defeated. Rather let us reserve our forces until we can fight with a certainty of victory. It seems to me that when the Constitution Act Amendment Bill comes before us most probably the Lower House, in order to obtain the extended

franchise and other privileges for the people, will probably accept such a clause as I have referred to. In passing this Bill hon. members are neither stultifying nor making fools of themselves, for it is perfectly plain that the Government only obtain power to raise the balance of the Loan. It is of no importance whether the figures are £1,000 or £800,000, and why, therefore, should we bring ourselves into conflict with the other House on this unimportant measure, and with the certainty of defeat, while if we postpone the fight there may be a certainty of victory. The Hon. Mr. Hackett said that I made a most extraordinary statement when I alluded to the right of the Governor to send back the Bill; but if the hon. gentleman will only consider the history of the Australian colonies he will know that the Governor has always had this inherent power.

THE HON. J. W. HACKETT: Under Responsible Government?

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not know that the powers of a Governor are in any way altered or restricted by the Constitution Act.

THE HON. J. W. HACKETT: What?

THE COLONIAL SECRETARY (Hon. S. H. Parker): I say that I do not know that the powers of a Governor have been in any way altered, and a Governor always has had the right to send back a Bill with a suggestion as to amendment. I never said that he might amend. And the hon. member virtually concedes this position himself when he says that where two Houses have the right to correspond the power of amendment is inherent in them. The Governor has a similar power of communicating by message, and that being so, he has the right to convey by message that it is desirable to amend a Bill before he assents to it. I do not see anything extraordinary in the course I suggest, or that it is encroaching on the privileges of either House, or upon the privileges of the people. I will not say that since the introduction of Responsible Government it has often been the practice of Governors to send back Bills which have passed their third reading and ask that amendments should be inserted; but it is a useful power to possess in case of typographical errors, or in other instances.

Surely, when a Bill has passed both Houses, and some inconsistency is discovered, the Governor should have power to send it back to either House for the purpose of amendment rather than that he should veto it. When the hon. gentleman asked me, I said that that was the course the Government would suggest; but really it is a matter of indifference whether the amendment is made or not. The figures contained in the first clause are of no importance, and we shall not stultify ourselves or look foolish in the eyes of anyone if we pass it. If, on the other hand, we adopt any other course, or amend the Bill, we may then stand a chance of looking very foolish in the eyes of the community at large.

THE HON. G. W. LEAKE: I think, sir, it is pure waste of time for us to continue a discussion upon a purely abstract question. When this Bill was first introduced, it was necessary to raise a further instalment of our loan; but since then, £400,000 has been successfully floated, and there is now, therefore, no necessity for the Bill. I deprecate any step being taken which will bring us into conflict with the Lower House, and more especially when, if we succeed, we shall only gain a nominal victory. To obviate this, I shall move that all the words in the first and following clauses be expunged. We have heard eloquent speeches from the Hon. Mr. Hackett and the Colonial Secretary, but whether we won or lost the result would not be affected. The Colonial Secretary has pointed out that the whole machinery may, when the Constitution Bill comes to us, be reviewed and altered, and therefore I think it utterly useless to go on with a Bill from which no result can follow, except, perhaps, a disastrous one. As to this House stultifying itself, the statement is simply absurd, and certainly if we can get out of the difficulty by moving the rejection of a Bill which is utterly useless, I do not think we shall stultify ourselves half as much as we should do were we to fight a barren proposition. I shall move that sections 1 to 13 be expunged.

THE CHAIRMAN (Hon. G. Shenton): The hon. member cannot move to strike out all the clauses at once. We must take them one by one. The hon. member can move that the third reading of the Bill be taken this day six months.

THE HON. G. W. LEAKE: I move that the first clause be struck out.

THE HON. E. T. HOOLEY: I have much pleasure in seconding this amendment. The House has got into a difficulty, and the simplest way out of it is to get rid of the Bill. There is no necessity for it at the present moment, although at the time it was introduced the Government were in a dilemma. Since then a large portion of the Loan has been floated, and there is no doubt as to our getting the balance of it. Besides, I think it is most damaging to the credit of the colony to pass this Bill.

THE HON. T. BURGESS: I am sorry I must oppose this amendment. We have evidently dropped into a difficult position in reference to this Bill—a position which has been fully explained both by the Hon. Mr. Hackett and the Colonial Secretary—and it is therefore unnecessary for me to go into the points again. As, however, the Bill has got to its present stage, I think it would be wiser to pass it than to set it aside. I have sufficient confidence in the Government to believe that if they are forced to take advantage of the Bill they will only do so to an extent which is absolutely necessary. It appears to me that if the Bill is allowed to pass, and it goes in the usual way to the Governor for assent, it will be quite competent for His Excellency to send it back to one of the Houses for correction, and we have, therefore, nothing to fear. The question of our constitutional rights in dealing with Money Bills appears to me to be a very uncertain one at the present time, but I may venture to express myself in accord with the Colonial Secretary, that we should take some steps with a view to obtaining for this House the right to make suggestions to the Legislative Assembly. At the present moment I think it better to pass the Bill and leave the Governor to act in regard to it as he thinks proper.

THE HON. J. MORRISON: I have much pleasure in supporting the Hon. Mr. Leake's amendment. This Bill was brought forward, as the Hon. the Colonial Secretary said, as a last resource.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not think I said it was brought forward as a last resource, but that it would only be used as a last resource.

THE HON. J. MORRISON: At all events it will be better for the colony in

the eyes of the world if we show that as soon as we got the portion of our loan we asked for we threw out this Bill. It is said that this House is *in extremis*, and that in another half year others will take our places. If at that time Treasury bills are required, let the new and elected House deal with the matter.

THE CHAIRMAN (Hon. G. Shenton): To save confusion I think it would be as well to dispose of the amendment of the Hon. Mr. Hackett first.

THE HON. J. W. HACKETT: I thought I had done penance for the stress which I laid upon the authority of Mr. Alpheus Todd, a year and a half ago, and I am surprised at the hon. gentleman quoting at length a speech of mine and urging attention to words which I say were spoken without sufficient consideration, and at a moment of extreme irritation. If, however, my arguments and views were worth attention then, I hope, my fuller arguments and better considered views are more worthy now. In regard to the right of the Governor to send back this Bill, I entirely dissent from the view taken both by the Colonial Secretary and the Hon. Mr. Burgess that he has any such power, and as long as I live I will never admit it. Under the old Constitution we had a single House and a Governor, and the accepted idea was that the then Legislative Council stood in the same position as the Assembly does now, and that the Governor filled the position which the Upper House does now. I have heard Governor after Governor state this, and no doubt it was in virtue of the power thus possessed that the Governor sent back Bills to the old Legislative Council. This power appears to have been now swept away and lodged in this House. I shall support the Hon. Mr. Leake's amendment, because it is preposterous that Parliament should be asked for power to raise £836,000 under the Loan Bill, when there only remains £436,000 available. And so conscious was my hon. friend the Colonial Secretary of this fact that he stated, in introducing the measure, that he would make the necessary amendment. The only way now out of the difficulty it seems to me is to accept the amendment of my hon. friend. I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

THE HON. G. W. LEAKE: I now move that clause 1 be struck out.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not desire to detain the House any further, except to say that after conference with my colleagues we came to the conclusion that it was advisable this Bill should pass. I said that it was thought that the £400,000 just raised would be amply sufficient for 1893; but it may be that such will not be so. The country and the Legislative Assembly are urging on the Government to a speedy prosecution of the works they are authorised to construct, and it may be that more works will be performed than the amount recently raised will satisfy. Under these circumstances the Government think it well to possess the power to raise money by Treasury bills, although with the hope that the occasion will never arise for its use. I repeat again that the Government will not use this power except as a last resource. The fact of the Government having this power may also have a good effect in expediting the action of their agents at Home. Under these circumstances I must ask hon. members to allow the Bill to pass.

Question—That the clause be struck out—put.

The committee divided, with the following result:—

Ayes	...	...	...	7
Noes	...	...	...	3

Majority for ... 4

AYES.				NOES.	
The Hon. G. Glyde				The Hon. T. Burges	
The Hon. M. Grant				The Hon. E. Hamersley	
The Hon. J. W. Hackett				The Hon. S. H. Parker	
The Hon. R. W. Hardey					(Teller).
The Hon. E. T. Hooley					
The Hon. J. Morrison					
The Hon. G. W. Leake					
(Teller).					

Clause struck out.

THE COLONIAL SECRETARY (Hon. S. H. Parker) moved, That the chairman do now leave the chair.

Question—put and passed.

Bill withdrawn.

#### ADJOURNMENT.

At 8 minutes past 5 o'clock p.m. the Council adjourned until Tuesday, 6th December, at 3 o'clock p.m.

## Legislative Assembly,

Friday, 2nd December, 1892.

Attack upon the town of Wyndham by Natives—West Australian Trustee, Executor, and Agency (Private) Bill: first reading—Perth Gas Company's Act Amendment (Private) Bill: in committee—Industrial and Reformatory Schools Bill: in committee—Safety of Defences Bill: Message from the Legislative Council—Adjournment.

The SPEAKER took the chair at 2.30 p.m.

#### PRAYERS.

#### ATTACK UPON THE TOWN OF WYNDHAM BY NATIVES.

MR. A. FORREST: I should like to ask the Premier, with leave, without notice, whether any reports have reached him, by wire, from Wyndham as to the natives having taken possession of the town?

THE PREMIER (Hon. Sir J. Forrest): No; I have not heard of any report of the kind. A telegram was received a few days ago by the Colonial Secretary, from the Government Resident, to the effect that some natives—an armed body of natives—had come into the town at night, and had threatened to spear, or almost had speared, the Sergeant of Police. It also stated that the residents were somewhat alarmed.

MR. R. F. SHOLL: How many residents are there?

THE PREMIER (Hon. Sir J. Forrest): I have no information at the present moment; if the hon. member will give notice of his question I will find out. The Government, however, have no fear that any harm will come to the good people of Wyndham. The natives are very bold in that part of the colony, and it is a common practice with them to come into the town at night to steal boats to go over to the islands. Several boats belonging to the people of the town and also to the Government have been stolen in this way by natives. I suspect that these other natives were on the same errand, and probably on their way they met the Sergeant of Police. However, I have no definite information, beyond what I have stated; but I have no doubt the Government Resident at Wyndham will take all necessary steps to protect the lives and property of the people living there.