

cans would be thrown out upon the evidence of the person proceeded against.

MR. TRAYLEN said although this might seem a reasonable thing to do, he was afraid that, human nature being what it is, it would not be wise to allow a defendant to give evidence in the way it was here proposed. Public feeling was far too strong for them to think of letting this Sunday trading go on, without efforts being made to suppress it. If this clause were adopted they would find themselves in this position: that the person who detected the publican would possibly find himself overmatched by the testimony of the person who had sold the liquor. If the magistrates had to pay the same respect to the evidence of the defendant as that of the prosecutor, he was afraid they would find themselves in a difficulty, and that there would not be many convictions, although the law was broken. He could not support the clause.

Clause put and negatived.

Schedule:

Agreed to.

Title and preamble:

Agreed to.

Bill reported with amendments, and report adopted.

ADJOURNMENT.

The House adjourned at 10-35 p.m.

Legislative Council,

Monday, 4th September, 1893.

Chattels Foreclosure Bill: first reading—Public Depositors Relief Bill: committee—Legal Practitioners Bill: first reading—Gold Declaration Bill: committee—Fremantle Gas and Coke Company's Act Amendment Bill: first reading—Constitution Act Amendment Bill: committee—Adjournment.

THE PRESIDENT (Hon. Sir G. Sheenton) took the chair at 8 o'clock p.m.

PRAYERS.

CHATTELS FORECLOSURE BILL.

On the motion of the HON. E. T. HOOLEY, this Bill was introduced, and read a first time.

PUBLIC DEPOSITORS RELIEF BILL.

COMMITTEE.

Clause 2.—“Act to apply to deposits of a public nature:”

THE COLONIAL SECRETARY (Hon. S. H. Parker): On a previous occasion, progress was reported in order to enable me to obtain certain information as to the amount of money this Bill will involve. I asked the Treasurer to supply the information, and he promised to do so, but, unfortunately, he has mislaid the return. The amount, I am informed, is about £7,000, and perhaps this statement will satisfy hon. members.

THE HON. J. W. HACKETT: That is quite sufficient. I was afraid the amount would have been very much larger.

THE HON. G. W. LEAKE: I cannot see any necessity for this Bill. I gather, from what has been said, that a quantity of public money, placed in the hands of various bodies, particularly Roads Boards, to be disbursed by them, has been absorbed by the banks; but, while we have the process of extent available, I cannot see why the Banks should be allowed to retain the money. The money is the property of the Crown, and can be recovered by the process of extent. I have heard it said that the money is not public money, but we can test the point in this way: if any of the members of these Boards were to die, the money would not remain to be disbursed by their personal representatives, but by their successors on the Boards. Why we should borrow money to hand to these Boards, and take a not very creditable security, I cannot, for the life of me, conceive. We must bear in mind that we are asked to take as security the receipts of banks which have made default, and I do not think the public funds should be given for them, especially when we can make them disgorge by the process of extent. I do not say this in any captious spirit, but as a lawyer who has had considerable experience on this very question. Perhaps the Colonial Secretary will postpone the further progress of the Bill so that we may have more time to consider the matter.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I should be very glad to postpone the further consideration of the Bill if anything were to be gained by the adoption of such a course; but I do not think we shall be in any better position later on than we are now. My hon. and learned friend must bear in mind that the reason this Bill is brought in is that the Government has been advised by its legal officers that the moneys in question do not belong to the Crown, they having been parted with, and consequently cannot be recovered by summary process of extent. The banks have also treated the deposits as being of a private nature, and have dealt with them in the same way they have dealt with the money of other customers, and have given fixed deposit receipts, extending over a term of years, at a certain rate of interest. In order to relieve some of these institutions which are in difficulties owing to an arrangement which has been made, and which has been concurred in by the Supreme Court of the colony, the Government have brought in this Bill, by which we take over the securities given by the banks, and provide the ready money to enable the creditors of these public bodies to be paid. I do not know that the Government can lose anything. The securities are good, and the rate of interest will be as much as the Government will have to pay for its money. If this scheme is not carried out, these public bodies will not be able to carry on. The Government do not desire to be extravagant with the public funds; but we feel that something must be done to assist Roads Boards and other public institutions to carry out their undertakings. If the Bill is thrown out it will not affect the Government. The only persons that will suffer will be these public bodies to which I have referred. At Albany there is a Mechanics' Institute, which had £200 to its credit at one of the banks, which was to pay for certain repairs. The contract had been let, and the work proceeded with; but when the bank stopped paying, the contractor could not be paid. There are many other similar cases, and if this Bill does not become law, the members of the bodies I have referred to will become personally responsible. I trust, therefore, that the Bill will be allowed to pass.

THE HON. G. W. LEAKE: May I ask the Colonial Secretary if any judicial decision has been given on this subject. It is all very well for the Government to say they are advised this, that, and the other; but from the remarks of the Colonial Secretary I am the more convinced that this money could be recovered. I do not think we should quite so readily yield to the opinion of the Crown law officers, and take for granted all these estimable men, the—

THE HON. D. K. CONGDON: The managers.

THE HON. G. W. LEAKE: Managers! No. These reconstructors, say.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not think any of these institutions are likely to take proceedings, for in the first place they have no money, and, secondly, they would hardly do so in the face of the opinion of the Attorney General that payment cannot be enforced.

THE HON. G. W. LEAKE: The Attorney General is not a court of law, and to my knowledge the gentleman in question never had anything to do with the process of extent. I have, and I have looked into the matter.

THE CHAIRMAN (Hon. Sir G. Shenton): I think the debate is getting rather irregular. All that is now being said should have been advanced at the second reading stage.

THE HON. G. W. LEAKE: I do not wish to question your ruling; but at present, I think, we are entitled to discuss anything arising out of the subject matter before us.

THE CHAIRMAN (Hon. Sir G. Shenton): The proper time was on the second reading. The question under consideration now is Clause 2; not the general principles of the Bill.

THE HON. G. W. LEAKE: Then, so as to put myself in order, I move that the clause be struck out.

Amendment put and negatived. Clause passed.

The remaining clauses were agreed to.

Preamble:

THE HON. J. A. WRIGHT: Although I agree with every clause in this Bill, I am sorry to see it placed on the statute book, for it will then be a lasting disgrace

that at one time an Australian bank stopped payment.

Preamble agreed to and Bill reported.

LEGAL PRACTITIONERS BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

GOLD DECLARATION BILL.

IN COMMITTEE.

Clause 1.—“Short Title:”

THE COLONIAL SECRETARY (Hon. S. H. Parker) moved that the words “first” and “October” be inserted in the blanks in the third line.

Question put and passed.

Clause 2.—“Repeal:”

THE HON. J. W. HACKETT: I move that progress be reported. It will be remembered that on the second reading I stated several objections I had to this Bill, and since then I have not had time to come to a satisfactory conclusion as to how it is advisable to proceed. I do not think the Colonial Secretary will have any objection to this motion.

Question put and passed.

FREMANTLE GAS AND COKE COMPANY'S ACT AMENDMENT BILL.

This Bill was received from the Legislative Assembly, and was, on the motion of the Hon. D. K. CONGDON, read a first time.

CONSTITUTION ACT AMENDMENT BILL.

IN COMMITTEE.

Postponed Clause 4.—“Constitution of Council:”

THE HON. J. W. HACKETT: The amendment which stands in my name is to move that the words “Electoral divisions” be struck out, and the words “Electoral provinces” be inserted. This leads us into one of the most difficult subjects—that of terminology—for every word that can be suggested to designate either matters of art, commerce, or science, or politics are open to more or less objections; but it seems to me we can get a better word to describe these areas than the word which is used. Division has an altogether too wide a meaning; indeed, it may mean anything at all. In fact, if we have to make a choice between district and division, it seems to me that the

former word is the proper one to use in regard to the Upper House, and “division” as applied to the Lower House, and for the reason that the constituencies of all Upper Houses are composed of a certain number of divisions for which members of the Lower House may sit. In Tasmania and South Australia the word “district” is used to designate the constituencies of the Upper House; but “division” is a word not only of no special meaning or import, but it is used in so many instances in this colony to express other things that I think it is inadvisable to earmark it, so to speak, by applying it in the way proposed by this Bill. For example, all the territory of this colony is divided into land divisions, and there are numerous other divisions. If we have electoral divisions they will be almost the same as the land divisions, and thus it is evident that considerable confusion will arise. The word I suggest is “province,” and the only objection it seems to me can be made to it is that it is too important and too large a term; but if it will add importance and dignity to the constituencies of this Chamber, and reflect importance, and dignity, and weight on the gentlemen who represent them, I think it is a word rather to be recommended than condemned. Quite apart from its importance, I think we may appeal to precedent. We are all familiar with the provinces of Canada, the provinces of France, and still more with the provinces of Ireland. In Australia, however, the word seems to have a more limited meaning, except in South Australia, where it is applied to the whole country; for we find it applied to districts or areas very much smaller. In New Zealand, we have nine provinces, although that colony is only one-tenth the size of Western Australia. But there is a nearer precedent in the cases of some of the elected Houses in Australia. In Victoria, which has both an elected Upper and Lower House, the constituencies of the Upper House are called provinces. Victoria is divided into seven or eight provinces, Melbourne itself constituting three of them, so that the idea of the Australian use of the word is to apply it to a large and dignified area, or to a large number of inhabitants. I myself should like to get a better word, but I have not been able to find one; but at all events

I think we should get rid of the word "division." I move that "divisions" be struck out and "provinces" be inserted.

THE HON. G. W. LEAKE: It seems to me we are really discussing a matter of smoke. In England the word "division" is well known, and we often hear the Southern division of County so and so referred to. Why not here have division of such and such district. "Division" is a word perfectly well known in the English language, and it seems to me that all these subtle distinctions tend to show that far more importance is attached to words than the carrying on of the business of the House. I think this far too trivial a matter to discuss.

THE HON. J. A. WRIGHT: I hardly think it too trivial a matter, but the only question seems to me to be which is the better word. I think the hon. member has done right in trying to point out to us an improvement. For my part I think "province" is too grandiloquent a term, and that "district" would be better, because you could have divisions or sub-divisions of districts.

THE HON. J. W. HACKETT: The Lower House has districts.

THE HON. J. A. WRIGHT: I know, but we are here to amend the work of the Lower House in some things. I think we might call the constituencies for this House "districts," and the constituencies of the other House "divisions" of those districts.

THE COLONIAL SECRETARY (Hon. S. H. Parker): As far as I am concerned, I do not care whether we call them divisions or provinces, and I leave the matter entirely to the House. I do not think, however, that the word "district" would do, because it seems to me to be a lesser term than division. Besides, we have several other districts. We have roads boards districts. We have also scab districts, and I do not think hon. members would care to be connected with such unpleasant associations as this.

THE HON. G. RANDELL: Taking into account the development which is going on, I shall certainly vote with the Hon. Mr. Hackett. The word "province" may look big now, but it will not be by and bye.

THE HON. J. G. H. AMHERST: I think the word "province" a little bit

too large, and I suggest that the word "county" would be better.

THE HON. G. W. LEAKE: Anyone acquainted with the history of the colony will recollect the terms County of Hay and County of Sussex. It strikes me "county" would be a better word.

THE COLONIAL SECRETARY (Hon. S. H. Parker): Let us make it "dukedom."

THE HON. J. W. HACKETT: Let us allow "province" to be carried and then the matter can be discussed in another place. We shall hear their arguments, and if "county" is thought a better word we can adopt it.

Amendment put and agreed to.

New clause:

THE HON. J. W. HACKETT moved that the following new clause be added to the Bill, to stand as No. 23:—"In the case of a proposed Bill which, according to law, must have originated in the Legislative Assembly, the Legislative Council may at any stage return it to the Legislative Assembly with a message requesting the omission or amendment of any items or provisions therein; and the Legislative Assembly may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications." He said: This clause is one of importance, but I am happy to think it is likely to be accepted in other quarters without opposition, and this knowledge gives me an opportunity of shortening my remarks. The object of the clause is this: it is well known that in the Constitution Acts of all the different colonies it is provided that certain Bills, called Money Bills, shall originate by Message from the Governor, and which shall be conveyed to the Lower House. When they come to the Upper Houses there is found to be a divergence of usage. The elected Houses have claimed a right to amend these Bills, but this has led to inconvenience and friction with the Lower Houses. In Victoria the Upper House is specially and particularly forbidden to amend, though it may reject, any Money Bill; but it is a curious fact that no House is more active, in amending Bills of this kind, than the Upper House of Victoria. It is, as I say, forbidden by the Constitution, but so long as the power of conference is permitted—so long as one House

is allowed to communicate by message with the other—the power of amending these Bills must practically remain in existence. It is true they cannot amend, but all they have to do is to lay the Bill aside and send down a message to the other House announcing their views in regard to it. If the Lower House falls in with their views, a new Bill is introduced containing the amendments, passed through all its stages, and is then sent on to the Upper House, where, of course, it passes. If, on the other hand, the Lower House does not fall in with the views of the Upper House, and that body stands to its guns, the Bill is laid aside and does not become law. I hope we shall not follow the lead of what is considered the most democratic colony of the group—Victoria—notwithstanding that the action of the Lower House has been supported by a man who, despite his failings, his virtues were such that, so long as Australian history is read, will take a foremost place amongst those who have been engaged in the work of the advancement of the colony—the late George Higinbotham. Fortunately, before these quarrelsome days fell on Victoria, and two years after Responsible Government had been introduced, a compact was entered into between the two Houses of South Australia, which embodies almost *verbatim* the words of this clause. But there the compact rests on the Standing Orders, which may be upset at any time by either House; although I do not think it is likely it will be. The clause I propose really does nothing more than provide machinery. It introduces no new principle or set of principles. It does not ask that this House shall have the right to amend Money Bills. It only provides that this House may return a Bill which originated in the Assembly, requesting the omission or amendment of any of its items or provisions. The Bill can then be returned to this House. The sole virtue of this is that the Assembly may themselves make the amendments, instead of this House laying the Bill aside, and the Assembly having to pass a fresh Bill through all its stages. It is, as I say, really a question of machinery, and I only introduce the clause in order to avoid that friction which has caused so much trouble times out of number in Victoria, and which has acted so

injuriously to the welfare of that community. I may say that there was a lengthy debate on this question at the Federal Convention, and after many days' discussion a similar clause to this was the compromise arrived at. I am sure this House will be unanimously with me in trying to avoid friction, and, at the same time, by this clause, we shall secure for ourselves the privilege of having amendments we desire made in a strictly peaceful manner by those with whom the origination of such Bills rests.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I think this committee should be thankful to my hon. friend for having introduced this clause, for if it becomes law it will prevent friction between the two Houses. We know that only last year there was almost a collision with the Lower House as to whether we had the right to interfere with a Money Bill. If the Lower House will only accept the clause, I think it will work well, and be of great benefit to the colony.

Question—That the new clause be added—put and passed.

Schedules agreed to, and Bill reported.

ADJOURNMENT.

The Council, at 9 o'clock p.m., adjourned until Tuesday, 5th September, at 2.30 p.m.

Legislative Assembly,

Monday, 4th September, 1893.

Police Magistrate, Perth, leaving the Bench—Auditor General's Report and the Public Works Department: Report of select committee—Kensington Lane Closure Bill: first reading—Grand Jury Abolition Act Amendment Bill: first reading—Fremantle Gas and Coke Company's Act, 1886, Amendment (Private) Bill: third reading—Legal Practitioners Bill: third reading—Wines, Beer, and Spirit Sale Act Amendment Bill: committee's report—Real Estates Administration Bill: second reading—Estimates, 1893-4: further considered in committee—Adjournment.

THE SPEAKER took the chair at 7.30 p.m.

PRAYERS.