

on the free-list and "screws" subject to a duty, or *vice versa*, and forthwith a resolution was adopted, praying for the appointment of a commission to revise the tariff, without any consideration whatever. It was admitted on all sides there was no necessity for a revision for the purpose of increasing the revenue, nor had he ever heard one good reason given for the necessity of simplifying the present tariff. He considered that the House had given unnecessary work to the commission, and that hon. members were now giving unnecessary work to themselves. Every hon. member had his own opinion on the subject, and was likely to stick to it, and he was really afraid the House had involved itself in a purposeless discussion.

On the motion of the ATTORNEY GENERAL, the various items specified in the report were then moved *seriatim*. [*Vide* "Votes and Proceedings," pp. 32, 33, 34, and 35.]

## LEGISLATIVE COUNCIL,

*Thursday, 17th August, 1876.*

Dangerous Matches Bill: second reading; in committee—Incorporation of W. A. Bank Shareholders' Bill: second reading—Marginal Notes of Bills—Imported Stock Bill: in committee.

### DANGEROUS MATCHES BILL.

MR. BROWN moved the second reading of a Bill to prohibit the importation of certain dangerous matches. The motion was agreed to, and the House went into committee to consider the Bill in detail.

Clause 1—"From and after the first day of July, 1877, it shall not be lawful to import to, or use within the Colony, any matches other than such as will only readily ignite upon a chemical substance specially prepared to assist such ignition; and any person or persons who shall contrary to the foregoing provision import to or use within the Colony

"any match or matches so unlawfully imported or used, shall be liable to a penalty not exceeding £50, and the matches so unlawfully imported or used shall be forfeited."

MR. BURT asked if wax vestas came under the denomination of a match within the meaning of the Bill?

MR. BROWN said they did. He regarded them as a very useless match, and if left about on a hot summer's day would ignite almost as readily as the ordinary tändstickors, which had led to the destruction of thousands upon thousands' worth of property in this Colony.

THE COMMISSIONER OF CROWN LANDS asked if it was not a fact that the manufacture of the so-called safety matches was in the hands of one firm, and, if so, was it not a somewhat dangerous monopoly to legislate that no other matches should be imported into the Colony but those manufactured by this one firm. Wax vestas were permitted to be imported into the other colonies, and he did not see why they should be prohibited here. He thought the provisions of the Bill should be confined to towns.

MR. BROWN hoped the hon. gentleman would not be content to consider the safety of the towns alone. The main object of the Bill was to protect property throughout the Colony, and he saw no reason why it should be limited in its operation. Until lately, he believed, the safety matches were solely manufactured by one firm—Messrs. Bryant & May—and he thought that the inventors of so useful a patent should be encouraged. He was, however, informed that they were not now the sole manufacturers of safety matches. The object of the Bill was not to prohibit the importation and use of matches other than those manufactured by Messrs. Bryant & May, but to prohibit the introduction of all such matches as will only readily ignite upon a chemical substance specially prepared to assist such ignition.

MR. SHENTON was glad to find that it was proposed to include wax vestas under the denomination of dangerous matches, for he believed that they had been the means of destroying a great deal of property.

MR. BURGESS considered the Bill a very necessary and useful measure. No doubt the public would sustain some inconvenience from its operation—and

especially smokers; but he thought that the good which the Bill would do was more than would counterbalance any inconvenience it might cause.

THE ATTORNEY GENERAL said, although the Bill dealt with a very small matter, it was one of considerable importance. He did not mean to say that he was opposed to its provisions, for he was aware that the safety matches had their value, and, no doubt, afforded some protection from fire. At the same time, he thought there were some objections to the Bill. Wayfarers in the bush who carry the ordinary tändstickor, if they get them damp, had still some means of lighting them; whereas under the same circumstances the so-called safety matches could not be ignited at all, and much inconvenience and personal hardship might arise from being placed in such a predicament. He thought it was very doubtful whether all the beneficial results which the framer anticipated from the operation of the Bill would be realised. Careless persons who are now in the habit of throwing down ignited matches in the bush would be guilty of the same reprehensible practice with these safety matches, and of course the result would be equally disastrous. He would like to know if the experiment had been tried in any of the other colonies, and with what result.

MR. BROWN was quite aware that some inconvenience would arise from the passing of the Bill, but he did think the amount of personal inconvenience it might produce would be very trifling compared with the benefit which the general community would derive from its operation. He was not aware whether or not a bill of the same character had been introduced in any of the other colonies, but he would point out to the House that in none of those colonies was such a preventive measure so necessary. In none of the neighboring provinces did the country become so arid, consequent upon the absence of rain during the summer season, as it did in this Colony, where for several months together not a drop of rain fell, and grass and vegetation became parched up and readily caught fire.

MR. PADBURY said he was glad to see the Bill brought forward, and illustrated the danger arising from the use of the matches now in general use,

by relating an instance where a magpie having caused the ignition of one of these matches the result was a fire which caused terrible destruction of property.

THE COMMISSIONER OF CROWN LANDS thought something might possibly be done to avoid accidents by providing a safer kind of match box than that ordinarily in use.

MR. CROWTHER said, every conceivable kind of box had been brought into requisition for the purposes of greater safety, but they could not compel people to purchase them. He was informed that tändstickors were prohibited in Victoria, but that, for some reason, wax vestas were mostly in use there.

THE ACTING COLONIAL SECRETARY said the Bill had his support. Although, by passing it, they might not prevent all accidents for the future, still he thought that the number would be lessened to a very great extent. Some inconvenience would, no doubt, arise from prohibiting the use or exportation of the common matches now in general use; but the good which would result from the prohibition would more than counterbalance any inconvenience that might be felt.

MR. HARDEY considered the measure one of very great importance. He believed that in five cases out of six it would be the cause of preventing the occurrence of fires which otherwise would take place. He would include wax vestas in the Bill.

#### IN COMMITTEE.

##### Clause 1.

THE ATTORNEY GENERAL moved, That the word "July," in the first line, be struck out, and the word "November" substituted in lieu thereof.

Agreed to.

The remaining clauses were adopted *sub silentio*.

#### INCORPORATION OF W. A. BANK SHAREHOLDERS BILL.

##### SECOND READING.

MR. BURT, in moving the second reading of this Bill, said he thought he need say but few words to recommend it to the favorable consideration of the House. It merely sought to constitute the shareholders a corporation, and to give them the usual privileges attached

to bodies corporate. The Bill was framed exactly, he might say, on the principle of the Incorporation Act of the National Bank, passed some years ago; nor was he aware that it contained any departure from the Acts incorporating banking companies in the other colonies. The great principle involved was the limiting of the liability of a shareholder to twice the amount of the value of his shares—a principle which was in operation in every incorporated banking company. The Bank merely sought to be placed on the same footing as another banking company already established in the Colony. There could be no objection to this, in the case of a bank which had been so long established as the W. A. Bank, and which had conducted its business so satisfactorily—especially to the proprietors. It was not like a new bank about to be started, but an establishment whose financial position was as sound as that of any bank in any of the colonies or at home.

MR. SHENTON seconded the motion for the second reading, which was agreed to.

#### IN COMMITTEE:

#### MARGINAL NOTES OF BILLS.

MR. BURT proposed that, instead of reading the various clauses of the Bill, the marginal notes should be read, so as to economise time.

MR. SHENTON seconded the proposition, which was agreed to, *nem. con.*

Clauses 1, 2, and 3 were thus adopted, when

THE ATTORNEY GENERAL moved, That progress be reported, with a view to refer the Bill to a select committee. If they reported favorably of it, the House might then, with some show of reason, adopt this mode of passing the Bill through committee, without the subject-matter of the various clauses being read. It could hardly be considered a satisfactory mode of conducting legislation, to gallop through a Bill in this way.

MR. BROWN reminded the House that this course was adopted,—on the motion of Mr. Barlee, the then Colonial Secretary,—with regard to the Distillation Bill. He (Mr. Brown) had objected to it at the time, but the House consented to the proposition, and the clauses were

agreed to upon the reading of the marginal notes. That, however, was a very ponderous and complex Bill, whereas the present one was a very simple measure. The House, however, had agreed to go through with it in this manner; and, if there was any opposition to this course being pursued, it ought to have been offered when the proposal to adopt it was made.

MR. PADBURY would prefer to see the clauses read. He was opposed to these select committees, whose reports, when brought up, were always cut to pieces.

THE ATTORNEY GENERAL would put it to the House, whether this mode of going through Bills could be regarded by the outside public as satisfactory. Personally, he should be glad to get the Bill at once right off the reel, but he thought it ought not to be told of them that they conducted the business of the House in a slipshod fashion.

THE ACTING COLONIAL SECRETARY thought that although there certainly was a precedent for adopting this course, still it was a precedent that, in his opinion, should not be followed. It seemed to him to present an appearance that the House took no interest whatever in the work of legislation.

MR. BURT did not see what they had to do with the outside public, or with what it thought of their mode of conducting business. They had been taught by the Government to adopt this plan. If hon. members chose to place any confidence in the assertion, he assured them there was nothing objectionable in any clause of the Bill, and he ventured to say that no hon. member would offer a single objection to any section therein. The Bill had been in the hands of the Governor, and one would imagine that the Attorney General had read it.

MR. MARMION said he found in *May*, p. 468, that it was a common practice in the House of Commons for the chairman of committees to read the number of each clause in succession, together with the short marginal note which explained its objects. Surely, if the practice was one commonly resorted to in the House of Commons, they might occasionally adopt it here.

The motion—"That progress be reported"—was then put and negatived,

and the Clerk proceeded to read the marginal notes of the various clauses.

Clause 33.

THE ATTORNEY GENERAL: I cannot help thinking—I do not oppose the section, for I believe the time has passed when one could regard this Bill as a private Bill, and it is well known that the Bank which it is proposed to incorporate is very strongly represented in this House, where the Bill is very likely to be received as a public measure whereas in reality it is a private Bill; but I say, I cannot help thinking that its introduction without the usual fees or notice, and its reception as a public Bill, establishes a dangerous precedent.

MR. STEERE hoped it would not be accepted as a precedent. The mere fact of the insertion of such a clause as this did not make a private Bill a public Bill. It was not a public measure when first introduced to the House, but no objection was raised to its introduction at the time. Had the matter gone to a vote—notwithstanding the large number of shareholders in the House,—the other side would have secured a majority. He considered that a powerful and wealthy corporation like the W. A. Bank ought to be the last to take any advantage of the House; nor did he think for a moment that they had done so. The time having passed for giving the necessary notice in the *Gazette* of their intention to ask for leave to introduce the Bill as a private measure, the Bank had no alternative but to have recourse to the mode of procedure which had been adopted. But it must not be established as a precedent for introducing private bills, in contravention of the standing orders of the House.

MR. BURT: The act incorporating the only other Bank in the Colony was passed in the same manner. Is not this local Bank entitled to the same consideration as a foreign banking corporation? I do not think the course here pursued establishes any precedent which may be taken advantage of by private companies.

Bill agreed to without amendment, and reported.

#### IMPORTED STOCK BILL, 1876.

On the motion for going into committee on this Bill being read,

THE ACTING COLONIAL SECRETARY said he thought it worthy the

consideration of the House whether there existed any necessity for such a measure, as the Act now in operation (37th Vict. No. 6) embraced every provision of the Bill now before the House. Under that Act the Governor was empowered, whenever it appeared expedient on sanitary grounds to do so, to make an order, and from time to time to alter, vary, or revoke the same, prohibiting or regulating the importation of cattle, sheep, or pigs. The existing Act was more elastic, and gave the Governor actually more power than the present Bill proposed to invest him with; for under the provisions of the Bill before the House, His Excellency would have no power by proclamation to prohibit the importation of cattle or sheep, if deemed necessary. He (the Acting Colonial Secretary) was not disposed to oppose the passing of the Bill under review, but he thought it worthy of the consideration of the House whether the existing enactment did not meet all our requirements.

#### IN COMMITTEE.

MR. STEERE said he did not think that the present Act did provide all that was required, or he would not have introduced the Bill standing in his name. The existing Act was a very elastic measure, no doubt—altogether too elastic, in fact. It invested the Governor-in-Council with too much power, and one of the objects of the present Bill was to limit that discretionary power, while at the same time rendering the law more stringent with regard to the prevention of the introduction of disease.

MR. BROWN concurred that too much power was placed in the hands of the Governor under the Act now in operation, although he did not mean to say that that power had been injudiciously exercised. Under pressure from the other colonies, His Excellency might be induced to make an order prohibiting the importation of cattle into this country, when in reality there existed no necessity for such prohibition, and when, in fact, it might prove injurious to our own interests that such a prohibition should be in force.

The Bill passed through committee with verbal amendments. [*Vide* "Votes and Proceedings," p.p. 38 and 39.]

## LEGISLATIVE COUNCIL,

*Friday, 18th August, 1876.*

*Cart and Carriage Licensing Bill: second reading—  
Marriage with Deceased Wife's Sister Bill: second  
reading—Inquiries into Wrecks Ordinance: con-  
sideration of resumed in committee.*

CART AND CARRIAGE LICENSING  
BILL, 1876.

## SECOND READING.

Motion agreed to, without discussion.

MARRIAGE WITH DECEASED WIFE'S  
SISTER.

MR. BROWN moved the second reading of the Marriage with Deceased Wife's Sister Bill. The hon. member said it afforded him much pleasure to submit the motion for the affirmation of the House, and whatever might be the ultimate fate of the Bill he should not regret having brought it forward, regard being had to the intense interest which, judging from the crowded state of the galleries, attached to the debate. The fundamental principle of the Bill was explained in its title, and, in recommending it to the favorable consideration of the House, he would be as brief as he possibly could, consistent with the great interest manifested in the question by the public and the great importance of the measure itself. One hon. member had characterised the Bill as a bill to encourage "dangerous matches," and had twitted him (Mr. Brown) with inconsistency in having a few days previously introduced a bill to prohibit the use of dangerous matches of another character. So far from the unions contemplated in the Bill before the House being regarded as dangerous matches by the general public, he believed that should the measure become law it would be found that very many persons would come forward to take advantage of it. His own views on the question might not produce much impression upon hon. members; but he openly declared that in his opinion such marriages as were here contemplated were the most natural of marriages, under the circumstances. Who, he would ask, could be regarded as so fit to take care of the orphaned children of a deceased wife as that deceased wife's own sister? These marriages were not prohibited in any part of the world up to the fourth century of the Christian era, nor were they prohibited by the Divine law;

—were they so prohibited he should not have come forward as he had done to press the adoption of the measure. This kind of marriage was not only not interdicted by the Divine law, but was expressly provided for in that law. He was not going to weary the House with a repetition of the arguments based on the well-known passage of Leviticus, which had been worn thread-bare in connection with this question, for he did not anticipate that the Bill would be opposed on any scriptural grounds; in fact, no such grounds could be fairly urged against such marriages. The first six General Councils held between the years 320 and 380 did not prohibit these unions, nor were they prohibited, as he had already said, in any part of the world up to the year 480 or 500 of the Christian era. It was true that one Provincial Council—the council of nineteen bishops, in Spain—did interdict such marriages, but one might judge of the value of such an interdiction coming from a council which directed that tapers should be lighted in cemeteries in the day-time, so that the spirits of the dead should not be disturbed, and which enjoined that bishops and deacons should live apart from their wives. The marriages which the Bill before the House sought to legalise were virtually permitted in England up to the year 1835, although power was invested in the ecclesiastical courts to nullify such marriage contracts; but the power was seldom exercised. The civil law recognised such unions. In 1835, the question came before the House of Commons and the House of Lords, and, in the latter, the spiritual peers gave their sanction for the legalisation of all such marriages as had taken place up to that date; so that it might be said it was a fair argument to adduce that, had such unions been contrary to Divine law, these spiritual peers would not have ratified such contracts. In short, the prohibition of marriage with a deceased wife's sister was simply an abominable relic of ecclesiastical tyranny, and the civil law should not tolerate it. A Bill of the same character was passed in the British Parliament in 1835, and measures of a similar nature had passed the House of Commons sixty-one times. Every one of the Australian colonies had adopted such an Act, and the Bill before the House was a transcript of the South

Australian Act. [The hon. member then proceeded to read numerous extracts from a pamphlet published by the Marriage Law Reform Association, showing the favorable light in which such marriages as were here sought to be legalised were regarded by many of the most eminent modern statesmen and jurists, and by equally eminent divines of all denominations; and concluded by formally moving that the Bill before the House be read a second time.]

MR. CROWTHER, in seconding the motion, said the hon. member who had just sat down had so exhausted the question under consideration that little or nothing was left for him to say. He would therefore simply remark, that so far as concerned the religious connexion to which he belonged—the Wesleyan—England had recently lost one of the ablest and most eminent men belonging to that body in the old country, in consequence of his not being free to marry the sister of his deceased wife. He alluded to the Rev. Mr. Punshon, who had, simply for the reason just stated, migrated from England to Canada, and it might with truth be said that in this case England's loss was Canada's gain. He must say, however, with regard to this marriage question, that it did seem somewhat anomalous that while it was proposed to legalise the marriage of a man with his deceased wife's sister, it was not, on the other hand, proposed to grant the same privilege to a lady to marry her deceased husband's brother. Surely what was sauce for the matrimonial goose should be sauce for the matrimonial gander.

THE COMMISSIONER OF CROWN LANDS objected to the Bill for that very reason. It was only a half-measure after all, and he would ask the hon. member for Geraldton if he had any objection to make it cut both ways. Allusion had been made to the other dangerous matches bill which the same hon. member had introduced during the current session; that Bill, however, was a compulsory measure, whereas the one now before the House was a Permissive Bill, and for that reason, perhaps, was not so obnoxious as the other. He (the Commissioner of Crown Lands) was a thorough upholder of civil and religious liberty, and for that reason, although

personally he should not think of going in for number two out of the same family, he would not oppose the Bill before the House, unless it went to a division.

MR. PADBURY thought that for a second helpmate the sister of a man's deceased wife must be as good a partner as he could get, as a rule, to look after his children. When he said this, he did not mean to run down other step-mothers altogether. He could not see any possible objection to such marriages, and the Bill should have his cordial support.

MR. BURT moved, That the Bill be read a second time that day six months, and he hoped that, when he came to divide the House on the motion, he should carry a majority with him. Hon. members must be well aware that the question under consideration had been the source of interminable debates in most legislative assemblies throughout the civilised world, and in no assembly had it been more thoroughly discussed than in the British House of Commons. But he would ask the House to consider who were the persons who usually brought forward such a measure? He did not mean to accuse his hon. friend the member for Geraldton of being actuated by personal considerations in the matter, but it was a recorded fact that the question of legalising these sort of marriages was brought forward, as a rule, by parties directly interested in the question, by parties who, in this respect, had violated the law, and who sought—he thought he was justified in saying—at the hands of the Legislature a Bill of indemnity, and nothing more, to legalise an illegal contract. It must also be admitted that to legislate in this direction was to legislate for a minority, and a very insignificant minority. He would ask, what interest did the question possess to the hon. members of that House, individually? He had canvassed hon. gentlemen to a certain extent on the point, and all he could get out of them was, they did not see why such marriages might not as well be legalised as not, and that personally they were utterly indifferent in the matter. If they were indifferent he would ask them to support his amendment, and not to vote for the motion before the House. The hon. member who had introduced the Bill said he would not regret having brought it

forward, if only for the public interest it had provoked—he could not say throughout the Colony, he denied that; but amongst a small minority in Perth. Now to gain such an object as that—simply to get his name up—did not, surely, justify the hon. member in bringing such a measure before the Legislature. Who so able, the hon. member for Wellington had asked, who so able to take care of the children of a deceased wife as her sister? [Mr. CROWTHER: The hon. member for Swan.] Mr. Burt, continuing, and not discovering that he had made a *lapsus lingue* in attributing the question to the hon. member for Wellington, created a roar of laughter by expressing his surprise at the domestic role allotted to the hon. member for Swan. Mr. Brown interposed, and stated that what he had said was that no one could be more fitted to take care of a deceased sister's children than a surviving sister. Mr. Burt said if that was what the hon. member had stated he agreed with him, but he contended that the Bill before the House would have a tendency to prevent a sister discharging that maternal duty towards the children of a deceased wife which under the existing law and the usages of society she was able to discharge without impropriety. Marriage with such a sister being now prohibited, no impropriety could be imputed in the case of her taking charge of her brother-in-law's household at the death of his wife, but if marriage with a deceased wife's sister became a lawful custom then the presence of that sister in the house would undoubtedly be regarded as a breach of propriety, and many a modest girl, who, under existing circumstances, performed the duty of a mother to her deceased sister's children, would, if the Bill before the House passed, be precluded, by an innate sense of propriety, from discharging such duties. This appeared to him a very strong argument against the measure. The hon. member, in moving the second reading of the Bill, said that a similar enactment had been passed in all the other Australasian colonies. He (Mr. Burt) did not think that was correct. He did not think that such an Act had been passed by the New South Wales legislature; nor had New Zealand done so. As he had said before, the object of the

Bill was to legislate for a small minority, which could hardly be said to exist among this community; if there did, let those who desired to contract this kind of marriage make a short trip to Adelaide, and they could have their desire gratified. Surely it could not be contended as an argument in favor of passing such a Bill here, that it had been passed elsewhere. It might be a very good Act in Adelaide; it might be a very necessary measure in Melbourne; it might apply very well in A, B, or C, but it was not at all applicable to this Colony, where, although we have a large preponderance of male population, there are plenty of other wives to be had besides sisters-in-law. As to the extracts quoted from the pamphlet of the Marriage Law Reform Association, they were mere *ex parte* statements promulgated by a society which exercised all its influence to get such a Bill into operation in England. He should like, on the other hand, to see a pamphlet published by a Marriage Anti-reform Association, setting forth the opinions of eminent men on the other side of the question. That such opinions existed, was evident from the result of the debates upon the measure in the mother country. These marriages, it had been said, were not prohibited in England until 1835, but were made voidable by the ecclesiastical courts. By the 5th and 6th William IV, No. 35, cap. 54, that which was before simply voidable was rendered absolutely void; and this Act could hardly be said to have done any more. He therefore failed to see why the Bill was wanted at all, if such marriages were neither prohibited by Scripture nor by the law of the land. There might be some doubt, however, on this point, and some people were anxious to settle it; but he had no intention of doing so. The Bill, if passed, would cause a serious disturbance in the domestic circle. They had been going on very peaceably and comfortably hitherto, with the existing custom, but, once they capsized the pot, who could say what the consequences would be? The advocates of the measure were not in a position yet to say what influence for good or evil it had exerted in other countries where these marriages were permitted, and he should be ashamed if hon. members affirmed the principle of

such a Bill on the very first occasion it came before the House. It was, after all, as the hon. the Commissioner of Lands had truly observed, but a one-sided measure; and he was now about to appear on behalf of the ladies. If they allowed a man to marry his deceased wife's sister surely they would not deny a woman the privilege, if privilege it were, of marrying her deceased husband's brother. That was not only permitted by the Scriptural laws but expressly enjoined, and he therefore thought he had made out a very strong case for the ladies. He questioned whether, regard being had to the Standing Orders, any hon. member who was married was entitled to vote on this Bill, because they were interested in its provisions. The hon. member for Greenough, he believed, was about the only one who was free to vote on the question, and surely he would not call for a division. Again, why make the Bill retrospective in its operation? If people have done wrong, if they have, with their eyes open, violated the law, why should the House be asked to give them a bill of indemnity? That was a principle he could not bring himself to affirm in any way. Moreover, the question had never been before the various constituencies, and hon. members must be in total ignorance of the feeling of the country in the matter. For this and the other reasons he had mentioned he trusted that the House would pause before they affirmed the resolution submitted for their approval, and give their adhesion to the amendment which he had proposed, and which would afford the country, as well as hon. members themselves, opportunity to consider the question in all its bearings.

SIR THOMAS CAMPBELL seconded and supported the amendment. The hon. baronet thought that legislation of this character, which certainly must to a great extent revolutionise present domestic relations, should not be introduced and carried through in this hurried manner. The question, as had been said by the hon. member who had just sat down, had not been before the country at all, and he (Sir Thomas) thought it was a question upon which the country should express an opinion, before it became law. He could conceive that the argument made use of by the hon. member who brought forward the Bill, that the other

colonies of the group had adopted a similar measure, would have some weight if those colonies and our own were under one dominion, and Australian federation were an accomplished fact. Under these circumstances, there might be some force in the argument of assimilating our laws with theirs; but at present he failed to see why, as regards our marriage laws, we should deviate from the marriage practice of the parent state, and legalise marriages which there would be null and void. Much had been said about the injustice of legislating for majorities, and although, considering the nature of our political institutions, it was in the nature of things that minorities must give way—and a good deal of sound argument might be adduced why it should be so—still there was something to be said on the other side. But how much more unjust was the principle of this Bill, which sought to legislate for the benefit of minorities, and contrary to the interests of the majority. It would not be denied that a large number of the people of this Colony were adverse to such a measure, and a still greater number were altogether indifferent in the matter. There was only an infinitesimally small section of the community who troubled themselves in the least about the question, and he failed to see what possible good would result from such a measure. He thought it was a pity that hon. members should regard this matter in the light of a joke, as it appeared to be regarded. The hon. member for Geraldton in moving the second reading talked about the interest which the public manifested in the question, alluding to the presence of a greater number of visitors than usual in the strangers' and ladies' galleries; but he (the hon. baronet) was afraid that what the hon. member characterised as intense public interest was merely intense curiosity—an eagerness for novelty and excitement. To him the question appeared to be one of serious import, involving, as it did, the domestic happiness of a large number of families. To a man, marriage might be regarded, more or less, as an incident in his life: he had other duties in the world outside the domestic circle to engage his attention and occupy his time. But, to a woman, marriage was the crown and sum of her existence; and to retain the affection and confidence of

her husband must ever be to her a matter of supreme concern. Therefore, a woman was naturally careful in the selection of those of her own sex whom she admitted to the intimacy of her home; and a man, if he be a right-minded man, was careful and guarded in his intercourse with other women. But to a woman, her sister was a different companion from any other member of her sex; they were each other's confidante and companion in their youth, and what more natural than that, after marriage, the one should wish to maintain the same happy intercourse with the other. This they could do now, under present circumstances; but once this law came into force there would be an end to this felicity of intercourse. The sister of a man's wife must then be regarded by him in the same light as any other woman, and he could not use towards her, without being guilty of impropriety, any of that pleasant brotherly familiarity in domestic life which contributed now to the happiness of many a family circle. She would become even more dangerous to him than any other woman; living in the same house, and in intimate connection; yet, as regarded marriage, being to him as any other woman. Seeing that it was not every man who would wish to marry his deceased wife's sister—although very many would wish to confide the care of their household and children to her—the hon. baronet considered that the argument that a deceased wife's sister was the most fitting person to take care of a deceased wife's children, one of the strongest possible arguments that could be brought forward against the Bill before the House. The hon. member for Geraldton had quoted at considerable length from a pamphlet, published by a Marriage Reform Association, in support of the principle of the Bill. It was a somewhat singular coincidence that he (the hon. baronet) had that very afternoon been glancing through a work published by the Marriage Law Defence Association, in which nearly every statement quoted by the hon. member was emphatically denied. So much, then, for the value of such testimony. As to the religious aspect of the question, he laid no stress on the Levitical law, which he considered utterly worthless as an authority upon such a point. There were much stronger arguments provided in

the Scriptures than any which could be adduced from the book of Leviticus, and there was one which appeared to him particularly opposed to such marriages as were here contemplated. He alluded to the saying of One who was greater than Moses—"For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh. Wherefore they are no more twain but one flesh." He thought that passage, taken in its simplicity by a religious mind, must certainly be regarded as repugnant to the principle involved in the Bill before the House—the marriage of a man with his deceased wife's sister—and ought to have weight with those who saw any religious question involved, which he would not say he himself did. He repeated, he regarded this question altogether in a far more serious light than the House seemed to regard it. It would, as he said before, revolutionise the domestic relations of many families, and, on the other hand, would give satisfaction to but a very few.

MR. STEERE said he would support the motion for the second reading, because he thought it necessary, whenever we could do so, and no special reasons existed to the contrary, to assimilate our laws as far as possible with those of the other Australian colonies. If the question had really not been before the constituencies, he would consider that there was some weight in such an argument for postponing the consideration of the Bill; but the question had been before the country since last year, for the hon. member who introduced the Bill gave notice of his intention to do so at the last session of the Council. In the meantime, hon. members had been inter-communicating with their constituents, and if the country had manifested an indifference on the point, he could not see why the Bill should not be passed into law, simply for that reason. It appeared to him that those who were opposed to it were moved by sentiment rather than anything else, and he believed that it would be productive of many practical advantages.

THE ATTORNEY GENERAL also supported the motion. Although he did not like the idea of departing from the law of England, still, as the hon. member for Wellington had pointed out, these marriages had been legalised in the other

Australian colonies, and he thought it would be well, in view of the future federation of these provinces, to assimilate their laws as far as practicable. If it were not a fact that marriages of this kind had already been legalised in the other colonies of the group, and it was now for the first time proposed thus to depart from the marriage laws of the mother country, he should have very strongly opposed the passing of such a Bill. It must be borne in mind that if it became the law of the Colony, and persons availed themselves of its provisions, those persons if they returned home to England would not, under the existing law of the old country, be regarded as man and wife, and their posterity would therefore have an unfortunate stigma attached to them. This, it appeared to him, was a very serious matter, and were it not that such marriages had already been legalised in the neighboring colonies, he should, notwithstanding his being, personally, in favour of the principle of the measure, have opposed it. He was, and had always been, in favor of the principle of the Bill, but he was free to confess he was not in the least moved by anything that had been quoted from the book of Leviticus; he had never read it, nor had he been aware until that evening that it contained a passage bearing upon the legality of marriage with a deceased wife's sister. In saying this, he did not wish it to be thought for a moment that he spoke with the least irreverence of the Bible; but he did not consider that the Levitical law on this point was any more applicable to us in these days than was that portion of it which prohibited the use of unclean meat. Indeed, the only argument which he had heard urged against the measure deserving of consideration, was that alluded to by the hon. member for Albany, and by the hon. member Mr. Burt, respecting the difficulties that may arise from these marriages. It was rather a catch expression made use of in England that the Bill was an Act for the abolition of sisters-in-law. It was contended that the essence of the relationship now existing between sisters would be destroyed; but he could not think so, looking at the state of affairs in countries where these marriages are regarded as legal and unobjectionable. If such unions were prohibited by the common sentiment of mankind, all over

the world, he might go with those who argued as did the hon. member for Albany; but it appeared to him there was no moral impropriety in such marriages, nothing repugnant to the sentiment of mankind, nothing contrary to the Divine law itself, and he should be very happy to see the Bill become law. He understood it was a transcript from one of the statutes of the other colonies, and, with all due respect for the gentleman who had drafted it, he did not altogether approve of the wording of it. In the first place it was set forth in the preamble that doubts had arisen as to the validity in this Colony of the marriage of a man with the sister of his deceased wife, whereas, in point of fact, no doubt could exist about the matter. In the next place the Bill, while proposing to legalise marriages of this kind heretofore solemnised within the Colony, did not render such marriages legal here if contracted elsewhere; so that the marriage of persons so united, and who might happen to come to Western Australia, would not, notwithstanding this Bill, be recognised as a lawful marriage. He, however, trusted that the motion for the second reading would be affirmed, and that the House would, subsequently, go into committee to consider it in detail.

MR. RANDELL said he intended supporting the motion before the House, although, personally, he was glad to think he was not the introducer of it, for, had he been, he might have laid himself open to the very sweeping condemnation made against the measure by the hon. member Mr. Burt. That hon. gentleman had stated that in all cases where such a measure had been brought forward in other countries, the prime movers were persons who were themselves interested in the matter. He (Mr. Randell) thought that the same motive it was which led to the enactment of most other legislative measures; but such an argument, in the present instance, was, at any rate, fallacious and utterly worthless. The hon. member who had brought forward the Bill could not be said to be actuated by personal motives, but rather by consideration of the public good, believing that the existing law of marriage pressed with undue hardship on many persons. The hon. member seemed to him to be deserving of the thanks of the public for

introducing a measure to remove the existing disabilities which inflicted this hardship upon some members of the community. He thought that the argument put forward by the hon. member Mr. Burt with regard to the preponderance of our male over our female population was an argument in favor of the Bill, rather than otherwise; for while there were a great number of males there was a scarcity of eligible spinsters from amongst whom they could select a wife. Another argument adduced in opposition to the passing of the Bill was, that this was the first time such a measure had been before the House. That, also, was an argument which had no weight. Had they not already, during the present session, passed several bills which they had never even heard of before they came into the House, whereas this question had been before the country since the last session of Council. Unlike the hon. the Attorney General, he (Mr. Randell) in supporting the Bill was moved by the belief that such marriages as were here sought to be rendered legal were not contrary to the Levitical law and the Holy Scripture. Did he think for a moment these marriages were opposed to the teachings of the Bible, he would never support the introduction of any measure to legalise them, according to our colonial law, notwithstanding the fact that such marriages had been legalised in the other colonies, and in other countries. But he believed that these marriages were authorised by the Scripture. Not only was a brother authorised to marry his deceased brother's wife, but he was actually enjoined to do so, and was subject, under the Mosaic law, to social degradation if he did not fulfil his duty in this respect. He did not think it was any argument against the Bill that such a measure had not been adopted in the mother country. A country like England had old-established customs and deeply-rooted prejudices to be overcome before it could be brought to agree to any radical change, and young colonies were frequently found to be ahead of the parent state in matters of legislation. As to the evils which the hon. member for Albany apprehended would result from the passing of the Bill, he thought the hon. baronet's fears were not well grounded. Moreover, the hon.

gentleman was somewhat inconsistent in the course of his speech. He commenced by paying a flattering, though well-deserved, compliment to the ladies, but his subsequent remarks was a libel upon the gentle sex; he almost went as far as to represent that, if this Bill became law, every married woman would regard her sister with a jealous eye, fearful lest she won the affections of her husband. He (Mr. Randell) had a higher opinion of the fair sex than that; nor did he anticipate that any moral impropriety or domestic disturbance would result from the passing of the Bill, which he trusted would be carried by an overwhelming majority.

MR. HAMERSLEY said he meant to support the amendment, because he objected to the principle of the Bill. He thought it smacked very much as if they were legislating for their own interests, in prospective, whereas it appeared to him they should devote their attention to legislating for our present requirements. He believed, with the hon. member for Albany, that if this Bill become law, it would create a revolution in many a domestic circle where peace and happiness now prevailed. He did not consider that the question had been before the country in any way; he thought the House was not justified in passing such a measure as this hurriedly, and without having an opportunity of ascertaining the views of their constituents with regard to the matter.

MR. BROWN said it could not be fairly stated that the Bill had been hurried through the House, or that hon. members had not been aware of his intention to introduce such a measure, of which intention he gave notice in the House last session. Since then ample opportunity had been afforded hon. members, and the public, and the press, to consider the question in all its bearings. The only organ of the press which had commented on the Bill had given it its heartiest support. When he addressed his constituents, he laid the matter before them, and the hon. member for Greenough had done the same with his constituents, and no objection was raised in either case to the introduction and passing of such a measure. If other hon. members had not done the same, it was not his fault, for they must have been aware that such

a Bill would come under consideration at the present session. The objections so eloquently urged against the measure by the hon. member for Albany, appeared to him to reflect unjustifiably upon the purity and the virtue of the opposite sex, [SIR THOMAS CAMPBELL: No, no.] otherwise the argument the hon. baronet made use of would not hold good. Existing domestic relations would not, in the case of any pure-minded sister-in-law, be disturbed in any way by the passing of the Bill. Such a measure was in operation in Scotland, for the English law passed in 1835 was not made to extend to that country; and in every part of the world, except some British colonies settled since the year 1829, such marriages were lawful. With reference to the objection raised to the wording of the preamble, that might be amended in committee, but it in no way affected the principle of the Bill.

The amendment—that the Bill be read that day six months—was then put to the House, and negatived upon a division. [*Vide* “Votes and Proceedings,” p. 42.]

Bill read a second time.

INQUIRIES INTO WRECKED ORDINANCE  
1864, EXTENSION BILL, 1876.

IN COMMITTEE: RESUMED.

Clauses 4 and 5 agreed to.

MR. STEERE, in accordance with notice, moved, That the following New Clause stand part of the Bill.—

In any enquiry to be held in pursuance of this Act into any charge of incompetency or misconduct against the master, mate, or engineer of any vessel by whose wrongful act or default the loss or abandonment or a serious damage to any ship or loss of life has been caused, the court hereinbefore mentioned shall appoint one or more person or persons of nautical or engineering skill, as the case may require, to act as assessor or assessors to such court; and such assessor or assessors shall upon the conclusion of the case either signify his or their concurrence in the decision, or if he or they dissent therefrom shall signify such dissent, and the reasons thereof, in writing to such court.

THE ATTORNEY GENERAL moved, as an amendment,—

That after the word “this,” and before the word “Act,” in the first line, the following words be inserted, “or the said recited Act,” and after the word “vessel,” in the second line, the words “by whose wrongful act or default, the loss or abandonment, or a serious

damage to any ship or loss of life has been caused,” be struck out; and after the word “shall,” and before the word “appoint,” in the fourth line, the words “in all cases in which such master, mate, or engineer requires it,” be inserted.

Amendment put and passed, and Bill agreed to and reported.

## LEGISLATIVE COUNCIL,

Monday, 21st August, 1876.

Imported Stock Bill: recommitted—Pensions Bill:  
second reading—Municipal Institutions' Act, 1876:  
second reading.

### IMPORTED STOCK BILL.

MR. STEERE moved, That this Bill be recommitted, in order to provide for the repeal of the Local Ordinance 29th Vict. No. 3, commonly known as the Cattle Disease Act (1865).

THE ATTORNEY GENERAL opposed the motion for recommitting the Bill for that purpose. The ordinance in question empowered the Governor-in-Council, when satisfied that disease among cattle existed in any country outside the limits of the Colony, to prohibit the importation of cattle from such country. The other local enactment which invested the Governor with this power—(37 Vict., No. 6.)—had already been repealed in accordance with the provisions of the Bill now proposed to be recommitted, and he would ask the House to pause before it repealed the only existing Ordinance which enabled His Excellency, with the advice of the Executive Council, when satisfied that disease was rife in any particular country, to summarily prohibit the importation of cattle from a country so infected, without having to summon the Legislature on every occasion when the exercise of such a precaution might be deemed expedient or necessary. No one could possibly imagine that the Governor would exercise such a power capriciously, or with a view to check, unnecessarily, the importation of stock into the Colony.