

the hon. gentleman argued—in supporting the resolution of the hon. member for Wellington they had shown that they had changed front, and altered their opinions, so that the question of harbor works was not now in their minds a question of paramount importance. I do not know whether the hon. gentleman, when he said this, alluded to my colleague or myself, but he looked this way. For myself, I may say I have not altered my opinion on the question of harbor works. I have always, and still do, look upon it as one of primary importance; at the same time I look upon railways to the interior as a question of equal importance. I think the two schemes should go hand in hand. Without railway communication, it would be useless to spend large sums of money in improving the harbor at Fremantle: on the other hand, it would be very little use spending any large sum in affording railway communication from the interior unless the harbor accommodation is improved, and greater facilities thereby afforded for loading vessels. I was opposed to the question of harbor works being sent home for the consideration of an eminent engineer, because I believed that his recommendations would be of a character quite beyond our means to carry out. Should the plan which Sir John Coode may recommend for our adoption be, as I anticipate, altogether beyond our means, what position shall we then be in with regard to public works? We shall have no harbor improvements, no railway, nor any other public work of importance, without further delay. It is this delay that I object to, and would fain avoid, by affirming the resolution of the hon. member for Wellington.

The House divided on the amendment to the proposed amendment, and to the amendment as amended; but ultimately the original resolution was carried. [For Division Lists, *vide* "Votes and Proceedings, p. 24."]

LEGISLATIVE COUNCIL,

Tuesday, 15th August, 1876.

Inquiries into Wrecks Ordinance 1864, Extension Bill, 1876: in Committee—Arrest of Debtors Bill: in Committee.

INQUIRIES INTO WRECKS ORDINANCE, 1864, EXTENSION BILL, 1876.

IN COMMITTEE.

Clause 1.

MR. STEERE thought it would be necessary that provision should be made for the appointment of a nautical assessor on the board of enquiry; and that it should be obligatory, and not optional, that such an official should have a seat.

THE ATTORNEY GENERAL said such a provision might be introduced, if deemed necessary, at a later period in the progress of the Bill.

Clause 2.

MR. STEERE asked why it was proposed to constitute the court a court within the meaning of the Imperial Act (25 & 26 Vict.)?

THE ATTORNEY GENERAL replied that, as it was contemplated under the provisions of the Bill to deal with the certificates granted by the Board of Trade, it was necessary that the court should be constituted within the meaning of the Merchant Shipping Act.

Clause 3.

MR. SHENTON enquired what was meant by the words "serious damage to any ship." There was the case of the *Cleopatra*, for instance; that vessel had sustained no "serious damage," and therefore, under the provisions of this clause, no enquiry could have been held into the cause of her accident. He would suggest the insertion of the word "casualty."

THE ATTORNEY GENERAL: If we wish to have power to deal with the Board of Trade certificates, we must follow the language of the Imperial Act. If we give this court power to deal with every casualty, we shall invest it with a power which the Board of Trade will not recognise, unless such casualty were the result of misconduct or negligence.

MR. SHENTON said that it would be in the recollection of the hon. member that in the case of the *Cleopatra*, to which he had alluded, although the vessel sustained no "serious damage," she remained on a reef for thirty-six hours, and, during that time, in order to pre-

serve the ship, a portion of the cargo was jettisoned, and the lives of the passengers were placed in jeopardy.

THE ATTORNEY GENERAL said he had already explained that if we wished to be empowered to deal with the certificates of the Board of Trade, we must follow the limits laid down by Imperial legislation. In the case alluded to, if anyone had charged the master with incompetency or misconduct, whereby the ship got on the reef, it would have been quite competent for him to do so; and if the charge were substantiated—although no serious damage had resulted to the ship—it would have been competent for the court to cancel his certificate.

MR. BURT called attention to the fact that the word "incompetency" was left out in this clause, although introduced in the first clause of the bill.

THE ATTORNEY GENERAL said, possibly the omission was a slip on the part of those who drew up the Imperial Act; but it was absolutely incumbent that they should follow the wording of that Act, which was done in this instance.

MR. BURT suggested that the attention of the Secretary of State be directed to the discrepancy, for such evidently it was.

Progress was then reported, and leave given to sit again.

ARREST OF DEBTORS BILL.

IN COMMITTEE.

Clause 1.

MR. BURT, in accordance with notice, moved, That all the words after the word "satisfy," be struck out, and the following words inserted in lieu thereof:—"Any Justice of the Peace in the said Colony that any person is indebted to such creditor in any sum not less than Five pounds, or if any duly authorised person shall, by affidavit, satisfy any such Justice that any person is under an engagement to remain in the Colony for any agreed term, or otherwise to pay to any other person any sum of money not less than Five pounds on his leaving the Colony prior to the expiration of such term, or if any duly authorised person shall, by affidavit, satisfy any such Justice that he or any other person has good cause of action against any person to an amount not less than Five pounds, and if in either of such cases it be fur-

ther shown to the satisfaction of such Justice as aforesaid, that there is reasonable ground for believing that the person so indebted, or under engagement or liability as aforesaid, is about to quit the Colony without paying his said debt, or the sum of money he is under engagement to pay on leaving the Colony as aforesaid, or discharging his liability, it shall be lawful for such Justice of the Peace, by a warrant to be signed and sealed by him, to direct any constable to apprehend such person." The hon. member said it had been observed by the hon. member for Swan that what was wanted in the House was a third lawyer—a want which he (Mr. Burt) thought was more felt on the other side of the House than on the Government side. He, however, would be happy to assist them in any way he could, and his assistance had been called into requisition in connection with this clause, the result being the amendment which stood in his name on the notice paper, but which, however, he was not prepared to support in its entirety. Some explanation was, therefore, required of him. He had expressed an opinion the other day somewhat adverse to the principle involved in the amendment, but at the suggestion of some hon. members he had framed certain alterations which were embodied therein. He regarded the Bill as a very important measure, and one which should be very cautiously dealt with, indeed. It appeared that the only alteration contemplated to be made from the existing Act was as regarded the engagements with immigrants; but the amendment before the committee would extend the operation of the Bill much further. It was proposed to enable any creditor to arrest a person indebted to him, on satisfying a Justice of the Peace that he owed him any sum not less than £5. At present, the Magistrate who must be thus satisfied of a person's indebtedness must be resident "near a sea-port"—which involved a hardship upon people living in the country, a long distance from any port. Here it was proposed to extend this power to every Justice in the Colony, so that a creditor residing, say, at York, might, on satisfying a Justice of the Peace in that district that a debtor owing him not less than £5 was about to quit the Colony, could obtain a warrant

for his arrest, without going to the trouble of going to the port where he had reason to believe the person indebted to him was about to embark. At present the Act limited the amount to £50; but in the amendment before the House the amount was unlimited. Previously, it was necessary to state that the person about to quit the Colony was about to do so in some vessel in a particular port; here, it was proposed to do away with this necessity. Those were the main features of the amendment. Personally, he questioned whether it was sound policy to extend such a power as was here contemplated to places other than seaports, and for this reason: it might lead to acts of annoyance and even of oppression on the part of some unprincipled creditors, who by merely rushing to the nearest Justice might cause a debtor at a distant seaport a great deal of trouble, expense, and inconvenience. He certainly thought that if this power were given to a creditor, the least they could do was to afford some corresponding protection to the debtor, by giving him an opportunity of contesting the claim at once, without having to be delayed until the vessel in which he was about to quit the Colony had sailed.

On the amendment being put,

THE ATTORNEY GENERAL said it went entirely beyond the intention of the Government in bringing forward the bill. Every hon. member was aware that imprisonment for debt, in this Colony, had been abolished, unless in a case where a man had the means to pay and wilfully refused to do so. Even then the power to imprison was very limited. Inasmuch, therefore, as the Colony, following in the wake of the home country—nay, further, actually setting it an example—had thought right to abolish imprisonment for debt, he failed to see how the amendment before the House could be regarded as consistent with that principle. If it were proposed to revert to the old system, this objection would have no weight; but as he supposed no such a step was in contemplation, he thought the objection was entitled to consideration. What they had now to do was to try to devise some simple scheme, not to imprison a man for debt, but to detain him in the Colony until his creditors had an opportunity of taking the necessary

proceedings against him. He was aware that the bill now before the House, if carried, would not give a creditor absolute power to keep his debtor in the Colony; at the same time, it afforded him an opportunity to enter an action against, and thus, to some extent, to detain him in the Colony. He did not think that, consistent with the abolishment of the principle of imprisonment for debt, we could go farther than that. If the amendment should be thrown out, he would have one or two verbal amendments to make in the bill.

MR. BROWN said he would do his best to combat the position laid down by the hon. the Attorney General. The hon. gentleman contended that if the amendment were carried, it would be altogether opposed to the principle of the original Bill; on the contrary, it appeared to him (Mr. Brown) that the amendment, in no sense, departed from that principle.

THE ATTORNEY GENERAL: I did not talk of the principle of the Bill, but of the principle of abolishing imprisonment for debt.

MR. BROWN said, if the proposed amendments involved a departure from the principle of the abolishment of imprisonment for debt, in the sense in which the hon. gentleman talked about, then he was free to admit that there was a departure; but not from the principle of the original Bill, which provided that a man should be kept in custody for a certain time. The only difference between the amendment and the Bill was this;—the latter limited the advantages sought to be offered to creditors to persons residing at or near a seaport town, whereas the former extended these advantages to every soul throughout the Colony. All must admit that it was highly improper for any person to leave the Colony without previously making some arrangements for the payment of his debts; and, it appeared to him, it was placing no improper restraint upon a debtor to call upon him to satisfy the claim of his creditor. He thought it would be wrong on their part to legislate merely for those who resided at or near a seaport; he considered that the Bill should be universal in its application. This principle of detaining debtors in the Colony was already in operation, for, by an order of the Supreme Court a person who was alleged to owe sums of £50 and

upwards, could, on its being shown that he was about to quit the Colony, be arrested, and imprisoned for six months, unless he sooner gave the prescribed security that he would not go out of Western Australia without the leave of the Court. In the amendment before the committee, precisely the same principle was contemplated. But the proposed amendments went further, and provided that any person who had cause of complaint must immediately take such steps as the law required to have his claim decided. He thought it was absolutely necessary they should pass some such bill; but, if they placed such restrictions in the way of creditors obtaining justice as were not strictly called for, better be without such a Bill at all. Supposing, by way of illustration, he owed thousands of pounds, and was possessed of a few pack-horses which would carry him overland to Albany; once arrived there, he could snap his fingers at his creditors, if the original clause of the Bill were adopted. The amendment proposed to afford creditors greater protection than that. In fact, the original Bill was entirely inapplicable to the Colony. The question involved was a most important one to the community at large, and he would be exceedingly sorry to see the amendment thrown out.

MR. STEERE said he would support the amendment. He considered that if a debtor were about to leave the Colony, there should be some ready means to stop him; and the same remedy should be afforded to those who resided at a distance from a seaport as those who dwelt in the immediate vicinity of one.

MR. PADBURY thought the Bill did not give the same protection to country creditors as to seaport creditors, and he failed to see the justice or use of such a Bill at all.

MR. MARMION said, hon. members seemed to have forgotten that the Attorney General had explained that there was no intention on the part of the Government, in bringing in this Bill, to meet any existing evil, but rather to amend the old Act so as to prevent immigrants who might be indebted to the Colony, from leaving it. It was not in contemplation by the Government, that he was aware, to remedy any other evil. No evil, in fact, had been brought under the con-

sideration of the House until the Bill came to be discussed. He confessed that there were evils which called for remedy, but he did not think they should be met in the wholesale manner proposed in the amendment. The greatest evil he saw in the law as it now stood was this: supposing a debtor had taken his passage from Fremantle, in the *Georgette*, for Albany, with the intention of leaving this country and proceeding to the other colonies. Say, that a creditor, residing at Fremantle, made an affidavit that this person was indebted to him in the sum of £10, and the Magistrate asked him in what vessel his debtor was about to leave? He could not say, "*The Georgette*," which might be the only vessel "in such port." In this respect, it appeared to him the Bill would be inoperative. He particularly objected to the amendment, which proposed to empower a Justice of the Peace, in default of payment of a debt of £5, to commit a man to prison for three months. That was a very dangerous power to be placed in the hands of one Justice.

MR. CROWTHER pointed out that the maximum period of imprisonment provided in the amendment was three calendar months, whereas in the original Bill a man was to be imprisoned until he paid his debt, or found a security for the full amount, which might not be until the day of judgment. He knew several debtors in the Colony who would find it extremely difficult to find security. The measure before the House seemed intended to remedy everyday evils. People got large advances of goods which they realised at an enormous sacrifice; snapped their fingers at their creditors, and away they went, entirely innocent of any intention to pay.

MR. BURGESS said the bill was not intended to press upon the honest man, but upon the dishonest debtor. He thought it was a very desirable measure, and that it was the duty of the House to protect creditors from the dishonesty of rogues.

MR. MONGER expressed himself in favor of the amendment, so as to protect country creditors.

THE ATTORNEY GENERAL said hon. members seemed to think that the bill was intended for the special benefit of people residing at seaport towns, or near such towns, and that country

creditors would be beyond the pale of this law. A country creditor, on the contrary, could claim the benefit of the provisions of the Bill, just as if the amendment were carried. The debt need not be contracted at or near a seaport, in order to bring it within the purview of the Bill, but in any part of the Colony. All that was proposed to do was to give the power to detain an absconding debtor to Justices residing at or near a seaport. He failed to see how a Magistrate living in the country could exercise such a power. A country creditor could appoint an agent at a seaport to act for him, and thus obviate any inconvenience.

MR. RANDÉLL would certainly support the amendment, because he thought they ought to act in this, as in every other matter, in accordance with the title of the Bill. He thought an opportunity should be afforded to residents in country towns as well as the residents of seaports, to protect themselves against dishonest debtors; and he believed the amendment here proposed would, to a very great extent, remedy the existing evil. Although the Bill was brought forward merely to prevent immigrants leaving the Colony while indebted to the Government, still, he thought they should avail themselves of the opportunity now afforded them of legislating in the direction contemplated in the amendment. He confessed he did not like the idea of three months' imprisonment in default of payment of the debt; but, probably, it would only be enforced in exceptional cases. Most people would manage, somehow or other, to find the means to pay.

MR. SHENTON said that, representing as he did an important country constituency, the amendment should certainly have his support. He thought, if adopted, it would make the Bill more applicable to the requirements of the Colony than it would be if passed into law in its present shape.

MR. BROWN pointed out that three months was the maximum period of imprisonment provided, and that, in the proposed new clause, all necessary proceedings for the final determination of any claim shall be taken and completed with all reasonable diligence.

MR. HAMERSLEY would be inclined even to go further than the Attorney General, and would not only have the

name of the vessel to be given, but also a description thereof. He had heard of people in debt leaving the Colony in casks.

MR. PARKER said he would certainly support the amendment, with a view to securing creditors living in country districts from being imposed upon.

Question—"That the words proposed to be struck out (all the words after the word "satisfy") stand part of the clause."

THE ATTORNEY GENERAL: Before that question is put, I shall move to report progress. The House must see that the Government brought in this Bill for a comparatively small object, but its whole scope would be altered were the proposed amendments introduced into it; and, before the Government decide to carry on the Bill under any circumstances I think it is right they should have an opportunity to consider their position with reference to it.

Progress was then reported, and leave obtained to sit again.

LEGISLATIVE COUNCIL,

Wednesday, 16th August, 1876.

The Imported Stock Bill, 1876: second reading.—
Report of Tariff Commission.

THE IMPORTED STOCK BILL, 1876.

SECOND READING.

MR. STEERE, in moving the second reading of this Bill, said that when Mr. Barlee attended the Intercolonial Conference held at Sydney some years ago, an understanding was arrived at among the various delegates present that the Governments which they, respectively, represented should introduce a Bill to prohibit the importation of cattle and sheep, under certain conditions, which Bill was to remain in operation for two years. Cattle disease was then very prevalent in Sydney, and it was deemed wise to make this provision. In pursuance of