

resisted the granting of this forage allowance, but he afterwards found that we could not very well refuse it under the circumstances.

MR. R. F. SHOLL said he had not taken much interest in these Estimates this year, but, with reference to this forage allowance, if this officer was doing other work than he agreed to do, there seemed to be some ground for granting it. If he had been in the House earlier, he would have moved to strike out the Commandant's forage allowance, for the only time he had seen that officer on horseback was on the Queen's Birthday, and then he rode a police horse.

MR. SIMPSON said he saw from the Commandant's last report that the strength of this Albany corps had been considerably reduced of late, and not only that but that it was a very inefficient corps. The Commandant said: "I regret to say that in a previous part of my report I have been forced to classify the Plantagenet Rifles as inefficient, not only on account of their bad attendance at inspection, but owing to their general inability at drill." He also said: "I have given my reasons for their weakness at the foot of the table showing increase and decrease; and I consider the same reasons hold good in accounting for the general laxity of this corps. I think that after the partially-paid force has been raised at Albany, some endeavours should be made to resuscitate this corps, and, if unsuccessful, that it should be disbanded." Surely the Premier would not ask them to vote £2 a head for a forage allowance for the commanding officer of such a corps as that. He should support the amendment to strike out the item.

THE PREMIER (Hon. Sir J. Forrest) said he believed the corps was becoming more efficient than it was, and that greater interest was taken in it. They tried all they could to get a local commandant at Albany, but unsuccessfully, and, after some difficulty, they induced the commanding officer of the garrison to accept the position. The simple question was: were we to have a defence force at all, or were we content to live in a false paradise? Why were all the other Australian colonies spending such large sums in this direction? Anyone who thought at all beyond the present day must know that the best security we could have was to be prepared

to defend ourselves when the occasion arose for it.

MR. COOKWORTHY thought it was an important point to supplement the garrison force by a local force, and it appeared to him that the colony was fortunate in having such an officer as Captain Harvest to drill this local force. Surely there must be some misapprehension in the minds of members when they proposed to strike out this item.

Amendment negatived, and the vote passed as printed.

*Central Board of Health, £234:*

MR. A. FORREST objected to the title of "Chief Inspector of Nuisances" being applied to the secretary of this Board. He said it was a misnomer, as this officer did none of the work of an inspector of nuisances, and he ought to be called "secretary," and nothing more.

THE PREMIER (Hon. Sir J. Forrest) moved that progress be reported, and leave given to sit again.

Question put and passed, and progress reported.

#### ADJOURNMENT.

The House adjourned at sixteen minutes to 11 o'clock p.m.

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### Legislative Council,

*Tuesday, 5th September, 1893.*

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

The PRESIDENT (Hon. Sir G. Shenton) took the chair at half-past two o'clock p.m.

PRAYERS.

PUBLIC DEPOSITORS RELIEF BILL.

THIRD READING.

The Bill was read a third time, and *passed.*

GOLD DECLARATION BILL.  
COMMITTEE.

Clauses 2 to 5 passed.

Clause 6.—“Person failing to comply with Act may be summarily dealt with”:

The Hon. J. W. HACKETT: This Bill has been before the House for some time, and it has been adjourned at my request with a view to giving me an opportunity of making it more effectual than, I believe, it will be as it stands. Hon. members are no doubt aware that there is an Act in existence by which a fine of £10, or 5 per cent. *ad valorem*, is provided as a penalty for exporting gold without a declaration being first made. At present, as we are aware, the prospects of the colony are in a large degree bound up in the gold-mining industry, and that in order that we may obtain the true and proper value of the industry, it is necessary that we should have a clear and accurate account of the quantity of gold exported. It is obvious that the advantages of obtaining this are many. In the first place our production of gold is the best advertisement we can have, for it attracts attention to our shores and draws crowds of persons to us; and secondly, it is important for statistical purposes, in order that we may compare our wealth with that of the other colonies. It is important in many other ways. It is essential, for instance, that the merchant shall know what the exports are in order that he may form proper conclusions as to the course of exchange. The most important matter of all, however, is that we fail to obtain our fair share of the advantages which are to be derived from possessing a large gold industry, if the amount raised is not properly declared. I have been told by a leading official at Kimberley that four-fifths of the gold found is taken out of the colony without being declared. It goes, or most of it at all events, to the Eastern colonies, and swells the returns of our neighbours to the detriment of ourselves, and leads to unfair comparisons being made between their returns and ours. At Coolgardie there are said to be 4,000 men on the field, yet the quantity of gold declared as being obtained there, although an increase on past years, is out of all proportion to what we are led to believe is raised. With the exception of a few large parcels, from such claims as

Bayley's, little or no gold is declared. I am told that the miners who get it, fill their pouches and return to the other colonies, thus doing considerable harm rather than benefit to the country. Of course the object of these men in not declaring their gold is to keep secret the patches they may have found; but these fields are not to be reserved for the few, but should be open to the whole of the people. If it is important that gold exported should be declared, it behoves us to see that this Bill is not thoroughly illusive. I draw attention to the difference between this Bill and the Customs Act of 1892 as regards penalties. Under the latter Act the penalty provided is “not less than £2 nor more than £200”; but in this Bill we have the minimum fixed at £50, and the maximum at £100. For my part I should like to see the penalties under this Bill placed on all fours with those under the Customs Act. There is no hardship upon any man to have to declare the gold he exports. The fact that he has a certain quantity of gold upon him need only be known to himself and the Customs officer; but should he think there is any chance of his being robbed, he has only to place it in the bank and receive for it its full value. There is no reason whatever that a declaration should not be made, except it be that the finder may wish to retain a monopoly of the place, and which it is important to the colony should be generally known. Half the penalty provided by the Bill is to go to the informer. I think it is of the utmost importance that in a matter of this kind we should have the informer. Under the old Act there never was a prosecution, notwithstanding that everyone knows that gold has been going out of the colony in quantities without being declared; but what man will undergo the obloquy and annoyance consequent upon being an informer for the paltry sum of £25? I shall move, therefore, to strike out “£50” and insert “£100,” and strike out “£100” and insert “£200.” I should like to see the penalty still higher; but in deference to the draftsman of this Bill, I am content with the amounts I have suggested.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I have no objection to the amendment; but I do think that if a man were found carrying away a few

ounces of gold and was fined £100, and the Government attempted to enforce it, there would be an immense petition signed asking for the remission of the penalty. Although, therefore, it may be wise to insert a larger maximum penalty, I do not think it would be well to increase the minimum.

THE HON. J. W. HACKETT: It would stop the offence.

THE HON. J. A. WRIGHT: I think it would be better to deal with the matter under the Customs Act. If a man were found taking three or four ounces of gold away without declaring it, it would be a great hardship to fine him £100; but if dealt with under the Customs Act the gold itself might be confiscated. I suggest that the amendment be put in the form that if gold is found being exported without being declared, it shall be liable to forfeiture.

THE HON. H. ANSTEY: I think if we make the penalty too severe we shall defeat the object we have in view. To fine a man £100 for not declaring that he had three or four ounces of gold seems to me to be going altogether too far. It would be better, in my opinion, to either forfeit the gold, or inflict a small penalty of, say, £10 for a small quantity and 5 per cent. *ad valorem* for a large quantity.

THE HON. J. W. HACKETT: That is the old Act.

THE HON. J. A. WRIGHT: Which will not act.

THE HON. H. ANSTEY: At any rate if we make the penalties too harsh, the sympathies of the unthinking portion of the public may go with the offenders.

THE HON. J. MORRISON: I have a great objection to stringent Acts, because in most instances they become dead letters. We have one or two such on the Statute-book now, and they have been practically in abeyance since they were passed. In this case the maximum might be made £200, but I think £5 should be made the minimum. Take the case of a man who has only two or three ounces of gold which he does not declare. If you fine him on the evidence of an informer, how much of the fine are you likely to get, or who will pay the informer? I am quite in favour of the confiscation of the gold.

THE HON. J. W. HACKETT: I am willing to accept the suggestion of the Hon. the Colonial Secretary and increase

the maximum only to £200, leaving the minimum as it stands in the Bill. To put £5 as the minimum is an absurdity, and should only be inserted if we wish to defeat the Bill.

THE HON. J. MORRISON: Surely a man should not be fined the same for taking of 2 or 3 ozs. as he would for taking 100 ozs.

THE HON. H. ANSTEY: He would have committed the same offence.

THE HON. J. MORRISON: If you make so severe a penalty for taking a small quantity you induce persons possessed of spleen against others to inform.

THE HON. J. W. HACKETT: The law orders that the gold shall be declared, and why should it not be done? What harm can it do to anyone to declare the amount of gold he has?

THE HON. J. MORRISON: A small quantity of gold, such as two ounces, might be put on a man by someone who would afterwards inform and get half the penalty, while the defendant himself might have been perfectly innocent of the whole thing.

THE HON. J. A. WRIGHT: I still think it would be very much better to amend this clause by bringing the offence under the Customs law. A man might carry away an ounce or two of gold in specimens and not declare it, and it would be very harsh to fine him in the way proposed. Such a severe penalty would also do a great deal of harm by holding out, as it does, a premium to blackmailing. If this amendment is not agreed to I shall ask the House to make gold an exportable article under the Customs Act, and liable to forfeiture if not declared.

THE HON. J. W. HACKETT: The objection to applying the Customs law is that under it there is no provision for the informer, and it is the absence of this individual that has led to the present Act being a dead letter.

Question—That the word “one,” in the fourth line, be struck out, and that the word “two” be inserted—put and passed.

Amendment agreed to.

THE HON. J. MORRISON: I now move that the word “fifty” be struck out, and “five” inserted in lieu thereof.

Amendment put and negatived.

THE HON. J. A. WRIGHT: I object to the clause altogether, for the reasons I

have stated. We could deal with this question much better under the Customs Act, and if, at any time, the informer is found to be necessary we can specially provide for him. I move that the clause be struck out.

THE COLONIAL SECRETARY (Hon. S. H. Parker): Might I suggest that the better course to pursue would be to allow this clause to pass, and then on the report stage the hon. member can move that the Bill be further considered this day six months.

THE HON. J. A. WRIGHT: I accept the suggestion.

Amendment, by leave, withdrawn.

Clause, as amended, agreed to.

The remaining clauses were passed, and the Bill reported.

#### CHATELS FORECLOSURE BILL.

##### SECOND READING.

THE HON. E. T. HOOLEY: My object in introducing this Bill is to place mortgagees of chattels on the same footing as those who advance on real property. In the case of real property the mortgagee can foreclose, and if he does not realise sufficient to pay the principal, interest, and charges, he can apply, after six months, to be registered as the owner. In regard to chattel interests the law is quite different. A mortgagee can, I believe, by some lengthy and costly process, apply to the Supreme Court and become the owner; but as I have said, it is a lengthy and expensive undertaking. Under the ordinary process of law many cases of hardship have occurred. Mortgagees have been unable to sell the property, and at the same time have been able to become nothing more than mortgagees in possession, and that position they must continue to be in unless this Bill is passed. The Bill places the mortgagee of chattels exactly in the same position as a mortgagee of realty. By Clause 3, before a bill of sale can be enforced, notice must be given, and then if default continues for six months, the mortgagee can take possession and apply to be registered as the owner. The application is to be verified by a statutory declaration stating:

- “(a.) That such default has been made  
“and continued for the period  
“aforesaid;

- “(b.) That the property mortgaged  
“has been offered for sale by  
“public auction by an auctioneer  
“after public notice of sale, and  
“that the amount of the highest  
“bidding at such sale was not  
“sufficient to satisfy the moneys  
“secured by the bill of sale,  
“together with the expenses of  
“and incidental to such sale, or  
“that there was no bid;

- “(c.) That written notice of the inten-  
“tion of the grantee to make  
“such application has been  
“served upon the grantor, or  
“given to the grantor, by leaving  
“the same at, or by forwarding  
“the same by registered letter  
“through the Post Office ad-  
“dressed to the grantor's usual  
“or last known place of abode  
“in the colony.”

I move the second reading of the Bill.  
Question put and passed.

#### LEGAL PRACTITIONERS BILL.

##### SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): This is a Bill, sir, to amend the law relating to practitioners of the Supreme Court and to regulate their conduct and charges. It will be observed that the Bill is divided into six parts. The first of them deals with what is known as the Barristers' Board, which is a Board at present in existence, but which it is proposed to constitute differently. It is now composed of the Attorney General, the Crown Solicitor, Her Majesty's counsel, and one practitioner, elected by the remaining practitioners; but by this Bill there will be five practitioners elected instead of one. This Board will have the control of practitioners generally, will make rules regulating the mode of admission and examination of articulated clerks, and will also have the duty cast upon it of investigating all charges of misconduct, on the part of practitioners. Full powers are given to the Board to take evidence and report to the Supreme Court. With regard to articulated clerks, I do not know that the law is altered. They must be persons of good fame and character, and must pass an examination to the satisfaction of the Board, and pay a fee of twelve guineas. No practitioner will be allowed to take

more than two articulated clerks at the same time, and no clerk, without the permission of the Board, will be allowed to engage in employment other than that of articulated clerk. With regard to the admission of practitioners, no person shall hereafter be admitted a practitioner unless he is a natural born or naturalised British subject of the full age of twenty-one years, and is a barrister admitted and entitled to practise in the High Court of Justice in England or Ireland, or is a writer to the Signet in Scotland, or is a solicitor of the High Court of Justice of England or Ireland, or is a solicitor entitled to practise in the Supreme Courts in Her Majesty's colonies or dependencies where in the opinion of the Board the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England, and where the like service as mentioned in the next subsection under articles of clerkship to a solicitor or attorney and an examination to test the qualification of candidates are or may be required previous to such admission, and where practitioners of the Supreme Court of Western Australia are entitled to be admitted, or has actually and *bona fide* served under articles of clerkship to a practitioner as required by this Act, and has so served for the full term of five years, or in case such person has taken the degree of Bachelor of Law at any University recognised by the board in England or Ireland, or any of the Australian colonies, including Tasmania and New Zealand, has so served for the full term of three years.

THE HON. J. W. HACKETT: How does it affect those who have partially served their time under the present law?

THE COLONIAL SECRETARY (Hon. S. H. Parker): It does not affect them in any way. It is provided further that every person who seeks admission must have been in the colony six months previous to applying, and must satisfy the Board and obtain a certificate that he is a person of good fame and character, and that he has observed the provisions of this Act. Then he has to pay thirty guineas; now he has only to pay ten guineas. There is, however, a proviso, that this provision shall not apply to clerks who have been duly articulated before the passing of this Act. With regard to

the suspension of practitioners and the striking them from the roll, there is very little alteration from the present law, except, perhaps, that the procedure is stated more fully and explicitly, and that more power is given to the Board in regard to the examination of witnesses in the taking of evidence. Then there is quite a new provision as to solicitors' costs. Under this Bill a practitioner may make a written agreement as regards the work he does. Clause 34 enables the judges of the Supreme Court and the Board to make general orders as to the costs of any business connected with sales, leases, mortgages, and settlements. They may also make a scale by which practitioners' charges will be taxed, and no practitioner will be allowed to sue for costs until he has delivered a signed bill. Then there are powers given to persons who receive it, to enforce the taxation of the bill, and in the event of one-sixth of the items being struck off, the solicitor will be forced to pay the costs of the taxation. Clause 46 provides that only practitioners will be allowed to act in legal proceedings, but exceptions are made in respect to proceedings before Local Courts by which the present procedure under the Local Court Acts remains in force. Neither does this provision apply to a person who may draw up a transfer of land under the Transfer of Land Act. By Clause 49 no practitioner shall "act as "agent for any person not being a duly "qualified practitioner in or concerning "any matter which it is herein provided "shall be done for profit by a duly qualified practitioner only; or, permit or "suffer his name or the name of his firm "to be made use of, in any manner whatever, in or concerning any such matter "upon the account of any person other "than a practitioner; or, do or permit or "suffer to be done any act which enables "or tends to enable such person to appear, "act, or practise in any respect as a "practitioner in any matter or proceeding, "civil or criminal, before any Court; or, "share with any person other than a "practitioner, or his executors or administrators, the whole or any part of the "costs arising from or in connection with "any act, matter, or thing which it is "herein provided shall be done for profit "by a practitioner only; or, use the name "of any person other than a practitioner

"or a deceased or retired partner in conjunction with his own, or hold himself forth as practising with any person other than a practitioner; or, in any manner employ or engage or permit or suffer to be employed or engaged in or about his office or affairs any person who has been or shall hereafter be struck off the roll of the Supreme Court or suspended from practice, until such person is re-admitted or such suspension is removed." These are, I think, the main provisions of the Bill. My hon. friend sitting on the cross benches will agree with me, I am sure, that such a Bill is not only necessary in the interests of the profession, but also in the interests of the public at large. It is even more so in the interests of the latter than the former, and I now move that it be read a second time.

THE HON. E. T. HOOLEY: This seems to me to be an excellent Bill, but there is one clause—Clause 31—I must take exception to. It says if the solicitor or client shall die the agreement for costs shall become void, and that the costs shall become chargeable as if no agreement had been made. I do not think this is fair, but perhaps the Colonial Secretary will look into the matter before we consider the Bill in committee.

THE HON. G. W. LEAKE: The word attorney, used throughout this Bill, has no force; because there are no such persons here. There are plenty of pettifoggers, but no attorneys. A very gross abuse came to my knowledge the other day, where, in one of the country districts, a pettifogger—an ex-convict—is in the habit of making charges as a solicitor and doing the work badly. I think such cases as these should be provided for. There is one good thing under this Bill, and that is that a legal practitioner may sue for his fees and be sued for negligence.

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

#### FREMANTLE GAS AND COKE COMPANY'S ACT AMENDMENT BILL.

##### SECOND READING.

THE HON. D. K. CONGDON: It will be remembered that when this Bill came from another place, I moved that it be read a first time. I did so because no one

appeared to be in charge of it; but as I am a shareholder in the company, I do not propose to take any further part in connection with the passing of the Bill.

THE HON. J. W. HACKETT: Having been requested to take the formal steps necessary to pass this Bill through this House, I have much pleasure in doing so. I say the steps are formal because it rests with the House which originates a private Bill to say whether it shall be gone on with or not. Although each House has the right to reject, the principal onus rests upon the House in which such Bills are initiated. According to the Standing Orders, a private Bill must be referred to a select committee, by whom it is reported on and recommended or otherwise to the House. This Bill has passed through this procedure, and it has been adopted by the other House without amendment. I believe it is a Bill identical with one which passed this House on a previous occasion, and which referred to Perth, whilst this one refers to Fremantle. The object of it is simply to extend the powers of the company to enable them to introduce the electric light. I move the second reading of the Bill.

Question put and passed.

##### IN COMMITTEE.

The Bill was then considered in committee, and agreed to without amendment and reported.

##### ADJOURNMENT.

The Council, at 3.40 o'clock p.m., adjourned until Wednesday, 6th September, at 4.30 o'clock p.m.