Legislative Assembly,

Tuesday, 22nd August, 1893.

Correspondence *re* William Harris, Pastoral Lessee—Collie Coalfield: return showing Expenditure in connection with—Legal Practitioners Bill: further considered in committee—Chinese Immigration Amendment Bill: second reading—Adjournment.

THE SPEAKER took the chair at 2·30 p.m.

PRAYERS.

CORRESPONDENCE *RE* WILLIAM HARRIS, PASTORAL LESSEE.

MR. PIESSE, in accordance with notice, moved, "That there be laid upon the table of the House a copy of the correspondence between William Harris (late pastoral lessee) and the Government; between the Government and the Western Australian Land Company; between Messrs. Horgan and Moorhead (solicitors for Mr. Harris) and the Government; and between Messrs. Horgan and Moorhead and Messrs. Parker and Parker (solicitors for the Western Australian Land Company), in relation to a claim for compensation for improvements on Leasehold $\frac{66}{1313}$."

Motion put and passed.

EXPENDITURE IN CONNECTION WITH COLLIE COALFIELD.

MR. R. F. SHOLL, in accordance with notice, moved for a return showing—

1. The total amount of money expended up to date upon and in connection with the Collie Coalfield.
2. A detailed return showing how the money has been expended.
3. Out of what vote the money has been obtained.
4. The amount of coal raised.

Motion put and passed.

LEGAL PRACTITIONERS BILL.

The House went into committee for the further consideration of this Bill.

"14. (1.) No person shall hereafter be "admitted a practitioner unless he is a "natural born or naturalised British sub- "ject of the full age of twenty-one years, "and,

"(*a.*) Is a barrister admitted and entitled "to practise in the High Court "of Justice in England or Ire- "land, or

"(*b.*) Is a solicitor admitted and entitled "to practise in the High Court "of Justice in England or Ire- "land, or

"(*c.*) Is a solicitor or attorney admitted "and entitled to practise in the "Superior Courts of Law in "those of Her Majesty's Colo- "nies or Dependencies where, in "the opinion of the Board:

"(I.) The system of jurisprudence is "founded on or assimilated "to the common law and prin- "ciples of equity as adminis- "tered in England, and

"(II.) The like service as mentioned in "the next sub-section under "articles of clerkship to a "solicitor or attorney and an "examination to test the qua- "lification of candidates are "or may be required pre- "vious to such admission, "and

"(III.) Practitioners of this court are "entitled to be admitted, or

"(*d.*) Has actually and *bonâ 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 Austra- "lian Colonies, including Tas- "mania and New Zealand, has "so served for the full term of "three years."

MR. DEHAMEL moved, as an amendment, that the following paragraph be added to the clause, to stand as paragraph (*b*), "Is a writer to the Signet in Scotland, or."

THE ATTORNEY GENERAL (Hon. S. Burt) said he had an amendment to the same effect, only he proposed that the Scottish practitioner should be a solicitor admitted and entitled to practise in the Supreme Court of Scotland.

MR. DEHAMEL did not know how far it would be necessary to insert the two amendments. It was seven years since

he left England, and at that time all writers to the Signet were necessarily solicitors.

THE ATTORNEY GENERAL (Hon. S. Burt) said there were writers to the Signet now, and solicitors also. It could do no harm to have the two amendments, and have it in the alternative.

Amendment put and passed.

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, that the words, "or in the Supreme Court of Scotland," be inserted after the word "Ireland," in paragraph (*b*).

Amendment put and passed.

MR. DEHAMEL moved, as an amendment, that the following words be added as a proviso to paragraph (*d*):—"Provided that the qualifications of any such applicant are equal to the standard in this colony required for articled clerks, and that every applicant shall pass an examination in the law of this colony before he shall be entitled to receive a certificate, as in the next section provided, from the Board." The hon. member said that some of the men who might come here and apply for admission might not be up to our colonial law at all; and it seemed to him that in the interests of clients and people generally we ought to insist that they should be equal to the colonial standard. We knew that Scotch law, at any rate, was very different from our English law, and he thought this was a very necessary proviso.

THE ATTORNEY GENERAL (Hon. S. Burt) did not see how this proviso was going to work. It said: "Provided that the qualification of any such applicant," &c. He did not know to whom "such applicant" referred. Then again it provided that the qualifications of this applicant (whoever he was) were to be equal to the "standard in this colony." What was the standard required in the case of articled clerks in this colony? He did not know that there was any particular standard.

MR. DEHAMEL: You are providing for an examination.

THE ATTORNEY GENERAL (Hon. S. Burt): Then every applicant is to pass an examination in the law of this colony?

MR. DEHAMEL: Yes.

THE ATTORNEY GENERAL (Hon. S. Burt) did not think it was feasible that everyone who came here should pass an examination in the law of the colony. He presumed the hon. member meant the statute law, because the common law in this colony was the same as in England or elsewhere. If the man did not know the law he would be no lawyer, and he would soon find his level. If he had to pass an examination in the statute law of this colony, he pitied him. He was afraid he would find a lot of it obsolete.

MR. R. F. SHOLL said he understood that the Scottish law was quite different to the English law, and, as they had now agreed to admit practitioners from Scotland, it seemed to him it was only right that they should insist that an applicant, before he was admitted, should know something of our own laws. He should imagine that no man who had received a legal training would find any difficulty in passing an examination in our colonial law after he had been here six months. He thought the suggestion was a very good one. It would be some guarantee to the public that the new practitioner was duly qualified to practise in this colony.

Amendment put and negatived.

THE ATTORNEY GENERAL (Hon. S. Burt) said he might point out, before this section passed, that sub-clause III. embodied a sort of reciprocity treaty. It was proposed to exclude practitioners coming here from other colonies of the Empire and being admitted to practise in our Courts, unless such colonies allowed a practitioner, going from this colony there, to be admitted to practise in their Courts. He did not see why our Courts here should be open to all comers, when their Courts were closed to anyone going from here there. He only pointed that out, before the clause passed.

Clause, as amended, agreed to.

Clause 15.—"No person, however "qualified in other respects, shall here- "after be admitted as a practitioner un- "less and until he has—

"(*a.*) For six calendar months im- "mediately preceding his "application for admission, "resided within the colony "of Western Australia; and

"(*b.*) Satisfied the Board, and ob- "tained from them a certifi- "cate, which may, with or "without the Board assign-

"ing or being compelled or "required to assign reasons, "be refused or suspended, "that he is, in the opinion "of the Board, in every re- "spect a person of good fame "and character, and fit and "proper to be so admitted, "and observed and complied "with the provisions of this "Act and the rules; and

"(*c.*) Advertised notice of his inten- "tion to apply for admission "in such manner and for "such period as required by "the rules; and

"(*d.*) Paid to the Board the sum of "Thirty guineas; provided "that this sub-section shall "not apply to any articled "clerk serving under articles, "duly executed prior to the "passing of this Act, and "registered as prescribed by "the rules."

MR. DEHAMEL moved, as an amendment, that all the words "with or without the Board assigning or being compelled or required to assign reasons," in paragraph (*b*), be struck out, and that the words "subject to the Board assigning their reasons therefor" be inserted in lieu thereof. It appeared to him that if the Board refused to grant an applicant a certificate they ought, in common justice between man and man, to assign their reasons for doing so. The applicant surely ought to know the reasons on which the Board came to its conclusion. It might be some point which the applicant might easily clear up, if he knew what the cause was. It seemed to him altogether too arbitrary a power to allow the Board to withhold a man's certificate without assigning any reason whatever. He thought the good sense of the House would be in favour of the alteration which he suggested in favour of the applicant, and give him an Englishman's chance of defending himself.

THE ATTORNEY GENERAL (Hon. S. Burt) said he had himself proposed to have moved to strike out the words referred to, and leave the law as it now stood, and as it had been for some time. But the hon. member went further than that: he proposed that the Board should be compelled to assign their reasons. Why should they be compelled to assign their reasons? No one supposed that this Board would refuse a man his certificate without having some reason for refusing it. No Board like this, working in the light of public opinion, would refuse to admit a man without reason for it. But it was a different thing to compel them to disclose their reasons. It might not be to the advantage of the applicant himself that the Board should publicly assign their reasons for refusing him a certificate. He thought they might safely leave it to the Board's sense of right not to refuse a certificate unless they had good reasons for it, and if they thought necessary to do so, to state their reasons.

MR. DEHAMEL could not see any force in the Attorney General's argument in saying that it might be to the advantage of the applicant himself that the Board should not state to him their reasons for refusing him a certificate. There was no necessity for stating it publicly. Surely it could not be detrimental to a man that he should know the reason why the Board thought fit not to grant him his certificate. On the other hand, if the reasons were disclosed, he might be in a position to throw light upon them, and to satisfy the Board that they were groundless. The Attorney General said the Board never would refuse to give their reasons if asked to do so, or if they thought it necessary. But it was notorious that the Board had, only quite recently, positively refused to assign any reasons for refusing a certificate, and the applicant had to fight it out in Court, and compel them to give a reason; and, he believed, he succeeded in getting them to do so at last. If, as in that case, the applicant was unable to get the Board's reasons without applying to the Court, it showed that the Board—whatever the Attorney General might say to the contrary—might refuse without assigning any reason.

THE ATTORNEY GENERAL (Hon. S. Burt) said he would tell the committee another reason why the Board should not be compelled to state their reasons: this Board had the decision of the matter, and no one else. The report of the Board was conclusive as to all the facts, findings, and inferences; and neither the Court nor anybody else had any power to question the Board's decision. He did not care,

personally, whether they compelled the Board to state their reasons or not; but this was the law at present, and he proposed to leave it as it stood by moving to strike out the words "with or without the Board assigning or being compelled or required to assign reasons." If you compelled the Board to assign their reasons, an applicant might haul the Board up before the Court, and contend that the reasons were not sufficient, and you would take away the Board's prerogative of finally deciding. If they wished to leave the final decision to the Court and not to the Board, let them say so; but, let them not leave the decision to the Board and afterwards take it out of their hands. He did not think they would get any Board to work under such a condition as that, if they were liable to be snuffed out by the Court. He took it that in ninety-nine cases out of a hundred the Board would give the applicant their reasons, and, if a satisfactory explanation was forthcoming, the matter would be cleared up. It would merely lead to the suspension of the certificate for a little while longer, while the matter was being cleared up.

MR. R. F. SHOLL thought that, looking at the constitution of this Board, every confidence might be reposed in them, and he did not think that House would be acting wisely in throwing any obstacles in their way to keep the legal profession as pure as possible. The Board, after making inquiries, might discover that the applicant was not a man of that character which ought to entitle him to admission as a practitioner; yet they might not have absolute proof of the fact, and they might not care to disclose their reasons; and he did not think it would be wise to compel them to do so. He did not suppose that such a Board as this would act arbitrarily, and he thought it would be a mistake to hamper them in their judgment.

THE PREMIER (Hon. Sir J. Forrest) said the same principle applied to licensed surveyors. There was an Act on our Statute-book which gave the Licensing Board, in the case of surveyors, the same power as this Barristers' Board had in the case of practitioners. The Board had to be satisfied in all cases that the surveyor applying for a license was a person of good fame and character, but the Board had not to assign any reasons for any decision they arrived at. He was not aware that that Board had acted in an arbitrary manner, and he had heard no complaints against it. He did not think that this Barristers' Board, the members of which had for the most part to be elected, was likely to act any differently from the Surveyors' Board, and one might fairly assume that the members of the Board would be honourable men, actuated by honourable motives.

MR. MOLLOY said the case referred to by the hon. member for Albany, Mr. Smith's case, seemed to point to the necessity for this amendment. In that case the Board were certainly unwilling to state their reasons, in the first instance, and when the applicant took the matter into Court, it was afterwards found that the Board (to say the least of it) had committed an error of judgment, and formed a wrong opinion; because the applicant, though at first refused admission, was subsequently admitted. It might be that the Board in some cases might derive its information from unreliable sources, and that the allegations against the applicant were unfounded. If the Board disclosed the reasons upon which they came to their decision, the applicant would have an opportunity of disproving these allegations, and of satisfying the Board that there was no ground for them. Surely that would be better than to allow a man to remain under an unmerited stigma. If the Board absolutely refused to assign any reason for refusing to grant a certificate, the applicant would have no redress whatever.

THE ATTORNEY GENERAL (Hon. S. Burt) said he was sure the hon. member did not wish to mislead the House, but it was not true that in a late case the Board made any mistake or committed any error of judgment. All they did was to refuse to issue a certificate until they satisfied themselves that the applicant was a fit and proper person to be admitted. The applicant wanted his certificate in a hurry, and insisted very strongly upon getting it; but the Board told him he could not get it then, as they had not had an opportunity of satisfying themselves as to his fitness. The Board had their own reasons for not granting the certificate at the time, and were prepared to give them, long before they had

a chance of doing so. The certificate was not issued simply because the Board was in correspondence with the other colonies with regard to the antecedents of this gentleman. All they wanted was to complete their inquiries, and, those inquiries having satisfied them, there was no occasion for any disturbance to have been made, because the certificate would have issued in due course.

Amendment put and negatived.

THE ATTORNEY GENERAL (Hon. S. Burt) then moved, without further comment, that the following words in paragraph (*b*) be struck out: "with or without assigning or being compelled or required to assign reasons."

Amendment put and passed.

MR. DEHAMEL moved, as a further amendment, that "Fifty" guineas be substituted for "Thirty" guineas as the fee payable upon a practitioner's admission. He said that in New South Wales the fee was 50 guineas; in Victoria, 100 guineas; and in South Australia, 100 guineas. His object in proposing that the fee be increased here from 30 guineas to 50 guineas, was that the difference should be applied for the purposes of the Law Library referred to in a previous clause. He thought it would be in the interests of the profession altogether to secure the advantages of an improved library for the use of the profession.

MR. MOLLOY was surprised at the inconsistency of the hon. member for Albany. A little while ago he was pleading that this Barristers' Board should not have such arbitrary powers, and urging that there should not be so much exclusiveness about the admission of barristers, but now the hon. member proposed to make the profession still more exclusive by insisting upon a high admission fee. The applicant for admission might be one of our own young fellows, an articled clerk who had served his apprenticeship here, and who could ill afford to pay 50 guineas for admission. Such a sum might be altogether beyond the means of his parents, and a serious hardship might be inflicted. He should certainly oppose this most strongly. He thought the fee was quite high enough as it stood.

MR. R. F. SHOLL said he was also opposed to this amendment. He thought that an admission fee of 30 guineas was quite high enough. The hon. member for Perth was in error in supposing that it would be a hardship in the case of articled clerks, because the clause expressly provided that articled clerks were exempted.

MR. MOLLOY: Only those who are now serving their articles.

MR. R. F. SHOLL thought that in any case the present admission fee was high enough. He believed there was a stamp duty of £10 10s. in addition to the admission fee, which would make up the total amount to be paid to 40 guineas, which was a very large sum for a young practitioner, just starting in life, after serving five years for nothing. He did not think they should make it too hard for these young practitioners.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) said if the proposal of the hon. member for Albany were to be adopted, it might be fairly thought and said outside that the legal profession here were desirous of keeping everyone else out of it; and he did not think it would be a good thing for the colony for such an idea to get abroad.

MR. A. FORREST said that 30 guineas did not seem to him at all too high. He should like to see the fee made prohibitive. He thought it would be better for the country if they could keep down the number of lawyers, because the more lawyers we had the more would people be made to suffer for it. That was his experience. It only opened the door to all sorts of speculative actions, if these lawyers thought a man was worth powder and shot. The colony would soon be swarming with lawyers, and every man who had anything to lose would be worried to death. Any move that would have the effect of preventing an increase in the number of lawyers would have his hearty support.

MR. SOLOMON said he was opposed to the amendment. He thought a fee of thirty guineas was quite high enough, especially in the case of young fellows just entering the profession, and who might not have a superfluity of this world's goods.

MR. DEHAMEL said he could see that the feeling of the committee was against the amendment, and therefore he would have no objection to withdraw it. But there was nothing in the argument that the idea was simply to make the profes-

sion more exclusive. It was the members of the profession themselves who would have benefited by increasing the fee, as the difference would have gone towards improving and enlarging the Law Library, which was his sole object in moving to increase the amount.

Amendment, by leave, withdrawn.

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, that the following words be added at the end of paragraph (*d*): "nor to any person residing in the colony at the time of the passing of this Act who has, prior thereto, notified to the Board his intention of applying for admission." There were one or two gentlemen at present in the colony who had come here with the view of being admitted, and who had spent some portion of their six months' probation; and he did not think it would be fair to apply this new law to them.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 17.—"No person shall be admitted a practitioner except by the Full Court:"

MR. R. F. SHOLL asked the Attorney General whether it would be necessary to provide for the contingency of a disagreement amongst the Judges, or whether that was already provided for in the present law.

THE ATTORNEY GENERAL (Hon. S. Burt) said the present law provided for all that.

MR. QUINLAN pointed out that if admission could only be granted by the Full Court an applicant might have to wait eight months before he could be admitted. There would be his six months' probation, which might expire just after the Full Court sat, and he would have to wait until the Court sat again. Why couldn't one Judge admit a man to practise, if the Board reported in his favour?

THE ATTORNEY GENERAL (Hon. S. Burt) said the Court was always ready to sit to admit a practitioner, and would only be too glad to do so.

Clause agreed to.

Clauses 18 and 19:

Put and passed.

Clause 20.—"Complaints against practitioner for misconduct:"

MR. SOLOMON, without comment, moved a verbal amendment—to insert the word "alleged" before the word "illegal."

Amendment put and passed.

Clause, as amended, agreed to.

Clause 21.—"The Board may summon "before it any practitioner whose con- "duct is complained of, or whose con- "duct may appear to the Board to require "investigation, whether the Board has "received a complaint or not, and may "inquire into the matter of such conduct; "and the Board may also summon the "complainant (if any), and any person "who, in the opinion of the Board, can "give evidence or produce documents "touching the matter in question:"

THE ATTORNEY GENERAL (Hon. S. Burt) moved that the following words be added at the end of the clause: "or whom the complainant (if any), or the practitioner, may desire to call as a witness on his behalf." He thought this would meet an objection which had been raised in an earlier part of the debate, by giving the person complained against an opportunity of calling rebutting evidence.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 23.—"Effect of summons:"

MR. SOLOMON moved a verbal amendment—to substitute "or" for "and"—which he said must be a clerical error.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 24.—"If after hearing the prac- "titioner and the complainant (if any), "and such witnesses as the Board shall "think fit, the Board shall be of opinion "that the practitioner is guilty of any "such conduct as aforesaid, it shall make "a report thereon to the Full Court:"

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, that the clause be struck out, and that the following be inserted in lieu thereof:—"If upon such inquiry the Board shall be of opinion that the practitioner is guilty of any such conduct as aforesaid, it shall make and transmit a report thereon to the Full Court, together with a copy of the evidence taken on the inquiry."

MR. DEHAMEL said he had already on the Notice Paper a new clause which he proposed to substitute for the present one, as follows:—"If after hearing the "practitioner and such witnesses as the "Board shall think fit, and also the wit- "nesses called and examined by the party "charged, the Board shall be of opinion "that the practitioner is guilty of any "such conduct as aforesaid, the Board

" shall have power to summon such prac-
" titioner by notice of motion before the
" Full Court; and the Full Court shall,
" upon the hearing of such motion, have
" power to acquit such practitioner of the
" charges brought against him, or to
" determine what punishment (if any)
" shall be inflicted upon him, whether
" by way of fine, suspension, or removal
" from the Roll or otherwise as to the
" Court shall seem fit."

THE ATTORNEY GENERAL (Hon. S. Burt) said his new clause carried out what the hon. member wanted.

MR. DEHAMEL: If so, why did you not accept mine?

THE ATTORNEY GENERAL (Hon. S. Burt) said one reason was this: there were two sections dealt with in his new clause, whereas the hon. member did not appear to have contemplated any amendment in Clause 26. According to that clause the report of the Board was to be conclusive as to all the facts and findings, whereas the hon. member in his proposed new clause did not intend to make the decision of the Board conclusive, but wanted to give the Court power to hear the case over again. Let it be either one thing or the other. The intention of the Bill was to make the decision of the Board, before whom the inquiry was held, final as to the facts and findings, the only thing left to the Court being to determine the punishment to be inflicted, if any.

MR. DEHAMEL said of course the Bill was a highly technical Bill, and not of much interest to laymen, and he did not want to split straws with the Attorney General. But he would point out that this clause and Clause 26 were really the crucial clauses of the Bill, and they proposed to take away from the practitioner the right of appeal.

THE ATTORNEY GENERAL (Hon. S. Burt): It is the present law.

MR. DEHAMEL: That was no reason why it should be continued. The clause as it stood left the Board to be the sole judges of the facts and findings, and made the judges of the Supreme Court mere puppets. He thought there ought to be an appeal to some Court beyond the tribunal instituted by this Bill. But as he said, he did not wish to split straws with the Attorney General; and if the hon. gentleman would consent to amend Clause 26 by empowering the Court, if they thought necessary, to call further evidence, beyond that taken by the Board, he would be prepared to adopt his suggestion. Solicitors and barristers were officers of the Court, and why should they in this Bill take away from the Court the power to deal with its own officers? This appeared to him to be the crux of the whole Bill.

THE ATTORNEY GENERAL (Hon. S. Burt) said if the Court required further evidence they could call for it. This was exactly the present law, and had been the law for years, and no objection had been taken to it by the judges or anybody else, that he was aware of. What they wanted to avoid was not to have the whole matter ripped open again by affidavit, under the rules, but to have some finality. He proposed to allow the Court to act, if they thought fit, without any further evidence, or, if they liked, they could call for affidavits or put the man in the box.

MR. DEHAMEL: Then why not insert the words I propose: " with or without further evidence "?

THE ATTORNEY GENERAL (Hon. S. Burt): Because it would spoil the whole Bill.

MR. DEHAMEL: Yes, because it would do just what you do not wish to be done.

Amendment put and passed, and new clause substituted.

Clause 25:

Put and passed.

Clause 26.—" If the Board make a re-
" port, as aforesaid, to the Full Court, such
" report shall be conclusive as to all facts,
" findings, and inferences therein men-
" tioned or contained; and the only ques-
" tion for the Court upon such report
" shall be to determine what punishment
" shall be inflicted, or other order made,
" on or against such practitioner:"

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as an amendment, to omit the words " and inferences." He did not know that they meant anything.

Amendment put and passed.

THE ATTORNEY GENERAL (Hon. S. Burt) moved, as a further amendment, that the following words be struck out: " Court upon such report shall be to determine what punishment shall be in-

flicted, or other order made, on or against such practitioner," and that the following words be inserted in lieu thereof: "Court may, upon motion, and upon reading such report, and without any further evidence, fine, suspend from practice, or strike off the roll such practitioner, and make such order as to the payment of costs by him as the Court may think fit."

MR. DEHAMEL said he still thought they ought to provide that the Court should be empowered to call further evidence than that submitted with the Board's report. This amendment seemed to aim at debarring the Court from calling further evidence.

THE ATTORNEY GENERAL (Hon. S. Burt) said it only empowered the Court to deal with the case without any further evidence.

MR. DEHAMEL moved, as an amendment, the insertion of the words "with or," so that the clause would read "with or without any further evidence."

The committee divided upon this amendment, with the following result:—

Ayes	...	...	3
Noes	...	...	16
Majority against		...	13

AYES.	NOES.
Mr. Molloy	Mr. Burt
Mr. Solomon	Mr. Clarkson
Mr. DeHamel (*Teller*).	Sir John Forrest
	Mr. A. Forrest
	Mr. Harper
	Mr. Loton
	Mr. Marmion
	Mr. Phillips
	Mr. Piesse
	Mr. Quinlan
	Mr. Richardson
	Mr. R. F. Sholl
	Mr. Simpson
	Sir J. G. Lee Steere
	Mr. Traylen
	Mr. Paterson (*Teller*).

Question put and negatived.

Question—That the words (Mr. Burt's) proposed to be inserted in the clause be inserted—put and passed.

Clause, as amended, agreed to.

Ordered—That Clause 26 be numbered Clause 25, and that Clause 25 be numbered Clause 26.

Clauses 27 and 28:

Put and passed.

THE ATTORNEY GENERAL (Hon. S. Burt) moved that progress be now reported, and leave asked to sit again.

Question put and passed.

Progress reported.

CHINESE IMMIGRATION AMENDMENT BILL.

SECOND READING.

THE PREMIER (Hon. Sir J. Forrest): Sir, I rise to move the second reading of this Bill, intituled "An Act to amend the Law relating to Chinese Immigration." The object of the Bill is to further restrict the introduction of Chinese. We have already admitted, by our legislation, that the introduction of Chinese requires some restriction, and, for that purpose, we have passed, at different times, two Bills, the second one being more stringent than the first; and it is now proposed by the Government that we should still further restrict and limit the introduction of Chinese. At the present time, as members no doubt are aware, there is no limit whatever to the introduction of Chinese, so long as they come to the colony under the Imported Labour Registry Act—that is, come to the colony under an engagement to serve an employer. There is nothing, in our present law, to prevent thousands of Chinese coming here, either under a genuine agreement or even under a bogus agreement, and I think I may safely say there is no member in this House who will not agree with me that this should not be allowed. And why, I might ask, is there a general consensus of opinion? It is because this is a British country, and we wish to build up a British community here, and we do not want the civilisation of Oriental countries to thrust itself into this Australian continent. I am not going to say anything this evening against the Chinese. It is not because of his vices or his virtues that I would exclude the Chinaman, but because his civilisation is different from ours. We do not want to see this country made a Chinese country. I think everyone in the colony, and certainly everyone in this House, will admit this: we do not want Australia to become a Chinese settlement. We wish it to become a worthy offshoot of the great mother country; we wish it to become a dependency of the great British Empire, inhabited by men of our own race, inheriting our own sentiments, imbued with our own ideas of civilisation. We want our own people to come here, to make this colony their home. I think no one will venture to say that a Chinaman who comes here, comes here with any sentiments of that kind. The reason

why Chinamen are required, or desired at all, by some people in this country, is because of their usefulness. It is because they work cheaper, in the first place; and, secondly, they are more accustomed to a hot and tropical climate than the British are, or Europeans. I quite admit that in the northern parts of this colony, for menial services, a Chinaman is very useful, and especially on stations as cooks and other menial employment. It is not easy at the present time—I admit that—to obtain the services of white men for that kind of employment in that part of the colony. But we must not sacrifice to too large an extent the interests of the future for a little present advantage. I will briefly deal with the main provisions of the Bill, which is a very short one. Clause 1 repeals the third and fourth sub-sections of Clause 5, and also Clause 7, of the Chinese Immigration Restriction Act of 1889, in order that Clauses 4 and 5 of the present Bill shall be substituted. These two clauses are exactly the same as the clauses in the Victorian Act. They make our law much more stringent. By this alteration we shall be able to prevent Chinamen coming here as crews of vessels, and so landing in the colony contrary to law. I am not aware that that has been the case to any large extent in this colony, but I have it on the authority of the Government of South Australia that a great many Chinese are introduced into Australia through coming here as crews of vessels, and, through one subterfuge or another, not returning by those vessels. This Bill will prevent that. Clause 2 provides an exemption in the case of naturalised Chinese, which is exactly the same as in the Victorian Act. Clause 3 provides that when a Chinaman comes to the colony after the passing of this Bill, he shall only do so under the provisions of the Imported Labour Registry Act—that is, under an engagement—and not of his own accord. He must be under an agreement or he cannot come at all. I trust members understand that. He cannot come here seeking employment on his own account; he must come here under an engagement, or he must not come at all. Even under those conditions they can only be introduced in the proportion of one for every 500 tons of the registered tonnage of the vessel in which they are brought here. That is the law that is universal now throughout Australia, with the exception of this colony. Under this arrangement, the "Australind" and the "Saladin," which are the only two steamers trading regularly between here and Singapore, will be able to bring, the former one Chinaman, and the latter two, or between two and three. We all know that this stringent restriction upon the introduction of Chinese to Australia is now the universal Australian sentiment. All over these colonies the same feeling prevails. They will henceforth, if this Bill passes, be restricted to such an extent as to be almost prohibited from coming here, and I do not think anyone will complain about that. I have taken the trouble to see how many Chinamen there are in the colony at the present time, and, as near as I can find out, there are 1,378 of them; and I think, myself, that is sufficient—at any rate for our present requirements. This Bill—any more than do the Acts of the other colonies—does not refer to any other aliens except Chinese, and Chinese in our principal Act are defined as "every person of Chinese race not exempted from the provisions of this Act." I am not prepared to say—as I have no doubt some members will say—that we cannot do without the Chinese. I believe it is possible to do without them. We have done without them before, and I do not see why we cannot do without them again. In the early days of the North-West settlements there were very few (if any) Chinese; and it is only within recent years that they have been introduced. As for the argument that they are very useful as cooks in a hot climate, I admit that. But, even under this law, stringent as it is, I think—taking into consideration that we have 1,378 Chinamen here already—we shall be able to obtain a sufficient number to meet ordinary requirements. We must, in our legislation, not only think of our own present advantage; we must also, if we are good citizens and loyal to the country, think of the future. The introduction of Chinese in the past has not been altogether what it should be in this colony. Either the Act has not been acted upon at all, or else it has been altogether too loosely enforced. I have myself heard, during the last year or two, of dozens of Chinamen congregating about Cossack and Roebourne who would not work, but who were merely living on their

fellow-countrymen, who, in some instances, had to pay their passages away. In other instances, the police had to disperse them, and send them out of town. Besides that, we have at present twenty Chinamen (or at any rate coloured men) in the Lunatic Asylum at Fremantle, a permanent charge upon the colony for the rest of their lives. Therefore, it will be seen there is a great deal to be said on the other side, as regards the importation of these aliens, whatever may be said as to their usefulness in the Northern parts of the colony. I consider, myself, and I think every member will agree with me, that this Bill is absolutely necessary. We must guard this country against invasion by an alien race. Whatever may be said by some members as to the requirements of the North, there is no necessity, in my opinion—no necessity whatever—for having Chinese in the Southern parts of the colony; and it is to the Southern parts that they are coming at the present time. During the last seven months 209 Chinamen have been introduced into this colony, and I ask members to guess how many of that number went to the North, and how many to the South. No less than 157 of them came to the South. According to that, the importation of Chinese is not to the North at all; and, if this Act does not come into force, you will have hundreds and hundreds of them coming down here, and very few will stay at the North. The North is not a good enough place for John Chinaman. He has to work there, and cannot do just as he likes. But down here, where he has a good many countrymen, he finds it much more pleasant living than in the country he came from. All I can say is, that the Government are determined that this influx of Chinamen to the Southern parts of the colony shall not go on. We are determined to put a stop to it, if we can. We are determined not to blind our eyes to the future of the colony, and the future of Australia, just for the sake of a little present advantage. I am quite prepared to admit that the Chinaman is an industrious man, and has many good qualities, but we prefer people of our own race, with our own ideas of civilisation and morality. This Bill is not introduced by the Government in any spirit of hostility to the Chinese as a race. I do not want to say a word against them, except that we do not wish this country to become a Chinese land, but a land for people of our own ideas as to settlement. For my own part, I think we have quite enough Chinamen in the colony already. Still they keep coming here in great numbers, and, had we not warned them through the authorities at Singapore that they might not be allowed to land, we would have had a great many more during the last few months. I think I need say no more, except this: whatever happens, it is our duty, and, so far as the present Government are concerned, we are determined, to do our best to prevent the introduction of any more Chinamen into these parts of the colony, except under the conditions contained in this Bill. And I think that so far as the requirements of the North are concerned, considering the number of Chinamen already in the colony, the provisions of this Bill will be found quite sufficient. Even under this Bill a good few can be introduced during a year—one for every 500 tons of the registered tonnage—quite enough, with those already here, to meet the country's requirements in the way of station cooks. As to anything else, I think white men can do the work. I know there is a difficulty in getting white men to act as cooks, but in any other capacity I think the work can be done by men of our own race. At any rate, I say again it is our duty to look not only to our present gain and present advantage, it is our paramount duty to look to the future of the country. I have very much pleasure in moving the second reading of this Bill.

MR. RICHARDSON: The Bill has been introduced by the Premier in a very able speech, and I quite sympathise with his sentiments; but I think there are other phases of the question which perhaps require to be considered. We must remember that we are dealing with the requirements of a very large territory, and that the conditions of life are not alike in all parts of it. We are not here to legislate for one portion of the community more than another, and I think this Chinese question requires to be looked at all round, and, in order to give us an opportunity of doing so, I beg to move that the debate be now adjourned.

Question put and passed.

Debate adjourned.

ADJOURNMENT.

The House adjourned at 20 minutes past 5 o'clock p.m.

Legislative Assembly,

Wednesday, 23rd August, 1893.

Defective Fish-plates used in the Construction of South-Western Railway—Contractor for Midland Railway Working from Southern End only—Homesteads Bill: in committee—Municipal Institutions Bill: second reading—Chinese Immigration Amendment Bill: second reading: adjourned debate—Adjournment.

The SPEAKER took the chair at 4·30 p.m.

PRAYERS.

DEFECTIVE FISH-PLATES USED IN CONSTRUCTION OF SOUTH-WESTERN RAILWAY.

MR. RICHARDSON, on behalf of Mr. HARPER, in accordance with notice, asked the Commissioner of Railways,—1. Who was to blame for the large number of defective fish-plates used in the construction of the South-Western Railway, and for the inferior character of some of the engines and other rolling stock imported from England since the appointment of our Agent General? 2. Had the said defective works been purchased at low, medium, or high rates? 3. By whom had the said goods been inspected and passed? 4. Was such inspection paid for by commission or salary? 5. Was the same inspector still employed by the Government?

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied: 1. As regards the fish-plates, they were manufactured by the Ebbu Vale Company, and this Company has admitted its liability for the defective plates by refunding the cost of those supplied in lieu thereof. The purchase took place previous to the appointment of the Agent General. Copies of the correspondence on the subject are now laid on the table. 2. The fish-plates were purchased at the market rate current at the time. 3. They were passed by an officer (Mr. W. H. Stanger), acting under Sir Charles Hutton Gregory, consulting engineer. 4. The inspection was paid for by a commission of 2s. 6d. per ton. 5. The same inspector is still employed by the Consulting Engineers in England. As regards the locomotives, a correspondence is now taking place in reference thereto, and the matter is being inquired into in England. Three Kitson's locomotives, received in December, 1891, were somewhat defective in workmanship and materials, but no other defective rolling-stock has been received.

CONTRACTOR FOR MIDLAND RAILWAY WORKING FROM SOUTHERN END ONLY.

MR. TRAYLEN, in accordance with notice, asked the Premier whether the Government had given permission to the contractor for the Midland Railway to work from the Southern end only, instead of at both ends, as provided in the original contract.

THE PREMIER (Hon. Sir J. Forrest) replied: The Government have not given any permission in regard to this matter, nor has any permission been applied for.

HOMESTEADS BILL.

IN COMMITTEE.

This Bill was further considered in committee.

Clause 22:

Put and passed.

Clause 23.—"Lessee to pay cost of survey by instalments:"

MR. A. FORREST moved, as an amendment, that the words "one half" be inserted after the word "pay," in the first line. He said the Bill introduced a new principle by requiring the selector to pay the cost of survey, and the Government ought to be satisfied with the second and third-class lands being improved, without exacting also the cost of survey. However, he proposed that the cost be divided.

THE PREMIER (Hon. Sir J. Forrest) said he was surprised at the hon. member having raised no objection to the poor selector of a freehold homestead being required to pay the cost of survey, yet now proposing to exempt from this charge the