

## LEGISLATIVE COUNCIL,

Monday, 7th July, 1873.

Election Petition—Prosecution of Mr. L. C. Burges—Chairman of Committees—Law Library—Payments to Assisted Schools—Exploration: in committee—Gold Prospecting—third readings—Wines, Beer, and Spirit Sale Act, 1872, Amendment Bill: in committee—Administration of Criminal Law Bill: third reading—Importation of Cattle, Sheep, and Pigs Bill: in committee—Survey of Land for Railway Purposes Bill: second reading and committee—Abolition of Forfeitures for Treason and Felony Bill: second reading and committee—Duty on Transfer of Landed Property Bill: third reading.

The SPEAKER took the Chair at 6 p.m.  
PRAYERS.

## ELECTION PETITION.

The SPEAKER reported to the House the receipt from His Honor the Chief Justice of the following certificate, announcing His Honor's decision in the matter of the petition of Mr Henry Gray against the return of Mr. G. Shenton, presented to the Council on the 31st July last, and by resolution of the Council on the 2nd August last referred to the Chief Justice:—

*In the matter of a Petition of Henry Gray, and of the Ordinance 33rd Vict., No. 13:—*

I hereby certify that after hearing the merits of the above-mentioned Petition, referred to me pursuant to a resolution of the Honorable the Legislative Council under the provisions of the above-named Ordinance; and after considering what was urged by the Counsel for the Petitioner and for the Respondent, respectively, and the evidence adduced in support thereof, I decide and declare that the Respondent, George Shenton, who was returned as the Member for the Greenough District, was not duly elected; and I further certify that I decide and declare that no person was duly elected. And as authorized and required I do decide and declare the aforesaid Election for the District of Greenough to have been absolutely void. I further certify that no corrupt practice was proved to have been committed by or with the knowledge or consent of either of the Candidates at the said Election; and that there was no proof that the said George Shenton had any personal knowledge of, or connection with, the illegal practices of his Agents.

Given under my hand this fifth day of July, 1873.

Archd. Paull Burt,  
Chief Justice.

To The Honorable The Speaker of the Legislative Council.

## PROSECUTION OF MR. L.C. BURGESS.

The COLONIAL SECRETARY (Hon. F. P. Barlee) laid upon the Table of the House the return of all expenses incurred in the prosecution of Mr. Lockier Clere Burges, moved for by Mr. Logue.

## CHAIRMAN OF COMMITTEES.

The SPEAKER notified to the House that he had received a memorial from a number of his constituents expressing their regret at his acceptance, *pro tem.*, of the office of Chairman of Committees, thereby leaving the largest constituency in the colony virtually unrepresented. Hon. members would recollect that when, sacrificing all personal feelings, he had consented to perform the duties appertaining to the Chairman of Committees in the absence of his colleague, Mr. Carr, he had done so on the express understanding that should his constituents offer any objection to his accepting the post, in conjunction with his present office, he would feel it his duty to resign. That objection had already been made, and memorial, signed by 109 of the electors of Perth, had that day been presented to him, expressing regret at the course he had taken. Under the circumstances, he desired to inform the House that after that evening he would no longer undertake the duties of Chairman of Committees.

## LAW LIBRARY.

The ATTORNEY GENERAL (Hon. H. H. Hocking), in accordance with notice, moved the adoption of a resolution affirming the advisability of taking steps with a view to the formation of a Law Library. The hon. and learned gentleman, quoting George the Third's remark that lawyers did not differ so much from other people in possessing a greater knowledge of law as in exhibiting a greater aptitude for knowing where to look for matters connected with the law, said that in this colony even that advantage was denied to them. Since his arrival here he had experienced much difficulty in discharging the duties of his profession consequent upon the scanty supply of standard legal volumes for reference and research. Excluding the works in the library of His Honor the Chief

Justice—which had been considerably reduced in number by a fire which occurred when His Honor resided in the West Indies prior to his appointment in this colony—and a few volumes in the office of the Crown Solicitor, he did not think that there were a dozen useful and authoritative law books at the disposal of the responsible law officers of the Crown in this colony. His Honor had expressed his approval of the proposition before the House, and it was suggested that with the view of forming a nucleus to the proposed library a sum of £428, now in the hands of the Registrar of the Court—being the accumulated amount of the Suitors' Fund, never likely to be claimed—be adopted for that purpose. Should the House accede to this proposal, he had no doubt that towards the annual extension of the library the members of the legal profession in the colony would gladly subscribe, say, five guineas annually. The formation of such a library was a much-needed desideratum, and would prove conducive to the better administration of justice in the colony. He would therefore move that the House adopt the resolution which appeared in his name, and he appealed to hon. members the more confidently because it did not become necessary to make any provision in the Estimates with the view of carrying the resolution into effect, there being an unclaimed fund in the hands of the Registrar which he contended could not be more suitably appropriated.

The COLONIAL SECRETARY (Hon. F. P. Barlee) seconded the motion.

Mr. STEERE quite sympathised with the position in which his hon. and learned friend was placed in the absence of works of reference and research to simplify the expounding of the law, but, at the same time, he thought that those who made those laws were quite as badly off. Hon. members had no library, worthy of the name, in connection with the House; and though he was not prepared to oppose the resolution he certainly did object to the formation of a Law Library to the exclusion of a Parliamentary Library. He would submit as an amendment to the resolution before the House the advisability of taking steps with a view to the formation of a law and parliamentary library in connection with the Legislative Council.

Mr. LOGUE seconded the amendment.

After some further observations from the ATTORNEY GENERAL (Hon. H. H. Hocking), the amendment was agreed to.

Motion, as amended, agreed to.

#### PAYMENTS TO ASSISTED SCHOOLS.

Mr. STEERE, in accordance with notice, asked the Colonial Secretary—

1. Why the payments to the assisted schools in the Wellington district, for results and attendance for the year 1872, have not yet been paid.
2. Whether he will instruct the inspector of Schools to give proper notice to district Boards of the days on which he intends to hold the yearly examinations of schools in their districts.
3. Whether the Central Board will recommend His Excellency and the Legislative Council to approve of by-laws being put in force for the purpose of compulsory education.

The COLONIAL SECRETARY (Hon. F. P. Barlee) replied as follows:—

1. Because the teachers have neglected to furnish the inspector with the information required to enable him to compute the amounts to be paid.
2. Instructions were sometimes since issued to the inspector to give the notice suggested.
3. It is not the intention of the Central Board to recommend His Excellency and the Legislative Council to approve of by-laws for compulsory education. The Elementary Education Act of 1871 requires no such course to be adopted.

#### EXPLORATION.

In Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee), in accordance with notice, moved that the House do then resolve itself into a Committee of the whole, for the consideration of the following resolution:—"That this Council is prepared to sanction the expenditure of such sum as may in the opinion of His Excellency the Governor be necessary to afford assistance to the members of the several Exploring Parties who may shortly be expected to reach this territory from the colonies of Victoria and South Australia, and to reciprocate the good offices formerly rendered to explorers from Western Australia." He was quite prepared to leave the resolution in the hands of the House, for he was sure it would require no advocacy. With the hospitable manner in which our own explorers had been received and entertained by our South Australian neighbours fresh in the recollection of hon. members, and bearing in mind the handsome manner the gentleman at whose expense

Col. Warburton's expedition (the Hon. T. Elder) had offered the services of the camels attached to that exploring party for the use of our own explorers on the arrival of Colonel Warburton's party here, there was no need for him to press upon the House the adoption of the resolution which he had the pleasure of submitting for affirmation.

Mr. STEERE cordially seconded the motion. He was quite certain that not only would every member of that House, but every member of the community extend a hearty welcome to the intrepid explorers now on their way across the continent to this colony.

Mr. PADBURY supported the resolution, and said that hospitality to strangers was a characteristic trait in the nature of Australians generally.

Mr. DEMPSTER believed that every resident in the colony would be only too happy to extend a cordial welcome and to offer the kindest hospitality to all the members of the various expeditions on their arrival in the colony.

Question put and passed.

#### GOLD PROSPECTING.

Mr. MARMION, in accordance with notice, asked the Colonial Secretary whether the reward of £5,000 offered for the discovery of a workable gold-field within 300 miles of a declared port in this colony was intended to extend to that port of the colony so far north as Camden Harbor or its vicinity?

The COLONIAL SECRETARY (Hon. F. P. Barlee) replied that Camden Harbor was proclaimed a port on the 11th January, 1865, and was therefore included in conditions of the reward. The subject of gold exploring would be brought before the House on Thursday in connection with the resolution which he proposed to submit, and the question of the reward might then be further discussed.

#### THIRD READINGS.

The following Bills were read a third time and passed, on motions by the Colonial Secretary (Hon. F. P. Barlee): Confirmation of Expenditure Bill and The Auctioneers' Bill.

#### WINES, BEER, AND SPIRIT SALE ACT, 1872, AMENDMENT BILL.

In Committee.

Mr STEERE, in accordance with notice, proposed the following amendment:—"That in the third section of the existing Act the words 'twenty-five' shall be struck out, and the said clause shall be read as if the 'five' had

been inserted instead thereof." The hon. member characterised the existing Act as prejudicial to the moral welfare of the colony, inasmuch as it was calculated to increase rather than to diminish the evils and crimes attendant upon drunkenness. In his own district the Act had operated most injuriously.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said he could hardly conceive that it was necessary for him to offer any observations on the amendment before the House. The existing Wines, Beer, and Spirit Sale Act was adopted after very careful and grave considerations; it was fully discussed during the session of 1871—when it was thrown out—and again in 1872 it was closely and thoroughly discussed, line by line, and clause by clause, and every principle of the Bill was at length adopted. That Act came into operation on the 1st of January last, and six months only had elapsed to afford an opportunity of watching the result of its operation. Under these circumstances, he deprecated any hasty interference with its provisions, and he would ask hon. members to pause before proceeding to reverse a decision arrived at last session after careful and matured deliberation.

After some observations from Mr. LOGUE and Sir Thomas COCKBURN-CAMPBELL, the amendment was put, "That the words 'twenty-five' be struck out," upon which a division was called for, the result being as follows:—

Ayes ..... 5

Noes ..... 10

Majority against ..... 5

Ayes.	Noes.
Mr. Logue	The Hon. H. H. Hocking
Mr. Carey	The Hon. M. Fraser
Mr. Padbury	Mr. Bickley
Mr. Hassell	Mr. Russell
Mr. Steere (Teller.)	Sir Thomas Cockburn-Campbell
	Mr. Dempster
	Mr. Monger
	Mr. Marmion
	Mr. Pearce
	The Hon. F. P. Barlee (Teller.)

Amendment thus negatived.

Mr. STEERE then moved another amendment to the following effect: "That in section 10 of the said Act the following words be added:—"Provided further, that such licenses shall only be granted to persons living within townsites." The object of this amendment was to restrict the issuing of colonial wine licenses to towns.

The COLONIAL SECRETARY (Hon. F. P. Barlee) thanked the hon. gentleman, himself a country resident, for his proposal to confine drunkenness to the townsites of the colony.

(Laughter.) He failed to see any reason why persons in the country should not be allowed an opportunity of purchasing colonial wine in small quantities as well as the inhabitants of the towns.

After some further desultory discussions, in which Messrs. LOGUE, BICKLEY, CAREY, MARMION, and PADBURY took part, the amendment was put that certain words be added, upon which a division was called for, the result being as follows:—

Ayes ..... 5  
Noes ..... 10

Majority against ..... 5

Ayes.	Noes.
Mr. Bickley	The Hon. H. H. Hocking
Mr. Padbury	The Hon. M. Fraser
Mr. Hassell	Mr. Leagu
Mr. Carey	Mr. Dempster
Mr. Steere (Teller.)	Mr. Monger
	Sir Thomas
	Cockburn-Campbell
	Mr. Marmion
	Mr. Pearce
	Mr. Russell
	The Hon. F. P. Barlee
	(Teller.)

Amendment thus negatived.

Clause 1: The prohibition against the grant or transfer of a license mentioned in the 17th section of the existing Act shall only apply to the grant or transfer of a Publican's General License, a Packet License, a Wine and Beer License, and a Wayside House License—

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

New clause—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the following stand as clause 4 of the Bill:—

The 48th Section of the said Act shall be and the same is hereby amended by omitting the words "and if any person serving under a criminal offence whether such sentence be partially remitted or not" down to the end of the Section.

New clause agreed to.

Clause 4, as printed, agreed to.

Clause 5—

The ATTORNEY GENERAL (Hon. H. H. Hocking) moved an amendment that after the word "pounds" in the last line but two, the following words be inserted in place of those printed: "And for a second or subsequent offence to a penalty of ten pounds."

Amendment agreed to.

Clause, as amended, agreed to.

New clause—

Mr. STEERE moved that the following stand as clause 6 of the Bill:—

In all proceedings for the enforcement of penalties under this Act, or under "The Wines Beer and Spirit Sale Act, 1872," if such penalty be not paid, or if it shall be returned to a warrant of distress that there are not sufficient goods or chattels on which to levy for the amount of such penalty, then the following terms of imprisonment shall be inflicted:—For any penalty not exceeding five pounds, imprisonment not exceeding two calendar months; for any penalty not exceeding twenty pounds, imprisonment not exceeding three calendar months; for any penalty not exceeding thirty pounds, imprisonment not exceeding four calendar months; for any penalty not exceeding fifty pounds, imprisonment not exceeding six calendar months.

The ATTORNEY GENERAL (Hon. H. H. Hocking) moved, as an amendment, that the following stand as clause 6 of the Bill:—

In all cases under "The Wines Beer and Spirit Sale Act, 1872," where a penalty of an amount not less than £30 has been inflicted and is not paid, and it is returned to a warrant of distress issued for the levying of such penalty that there are not sufficient goods and chattels of the defendant on which to levy for the amount of such penalty, the convicting Justice or Justices shall have power to sentence the person on whom such penalty has been inflicted to imprisonment with hard labor for a term not exceeding six calendar months.

Amendment not agreed to.

New clause agreed to.

Clause 6, as printed, agreed to.

Clauses 7 and 8 agreed to.

New clause—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the following stand as clause 9 of the Bill:—

Section seventy-five of the said recited Act shall be and the same is hereby amended by omitting the word "spiritous" as it occurs therein.

New clause agreed to.

New clause—

Mr. STEERE moved that the following stand as clause 10:—

No person holding a publican's general license, or a wine and beer license, or a wayside house license, shall permit any

billiards, bagatelle, or other games to be played within such licensed house after the hour of 10 o'clock in the evening by any other than *bona fide* lodgers; and if any such licensed person shall offend against the terms of this provision, he shall for every such offence forfeit any sum not exceeding £50, to be recovered before any one or more Justices of the Peace.

Debate ensued.

Mr. MARMION moved an amendment that the figure "10" in the third line be struck out, and the figure "12" inserted in lieu; and that the figure "50" be struck out, and the figure "20" inserted in lieu.

Amendments agreed to.

New clause, as amended, agreed to.

New clause—

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the following stand as clause 11 of the Bill:—

That this Act and the said recited Act shall be read together as one Act.

New clause agreed to.

Preamble agreed to.

Title agreed to.

Bill reported, with amendments.

#### ADMINISTRATION OF CRIMINAL LAW BILL.

Third Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a third time.

The Bill was read a third time and passed.

#### IMPORTATION OF CATTLE, SHEEP, AND PIGS BILL.

In Committee.

The Bill passed through Committee without discussion.

#### SURVEY OF LAND FOR RAILWAY PURPOSES BILL.

Second Reading and Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a second time.

The Bill was read a second time and passed through Committee without discussion.

#### ABOLITION OF FORFEITURES FOR TREASON AND FELONY BILL.

Second Reading and Committee.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a second time.

The Bill was read a second time and passed through Committee without discussion.

#### DUTY ON TRANSFER OF LANDED PROPERTY BILL.

Third Reading.

The COLONIAL SECRETARY (Hon. F. P. Barlee) moved that the Bill be now read a third time.

The Bill was read a third time and passed.

The Council adjourned at 11.15 p.m.

#### LEGISLATIVE COUNCIL,

Tuesday, 8th July, 1873.

Assent to Bills: Message from the Governor, No. 1—Harbor Improvement Board Report: select committee—Chairman of Committees—Immigration: in committee—Torrens Act: select committee—Departmental Expenditure: select committee—Sussex Roads Board: in committee.

The SPEAKER took the Chair at 12 noon.  
PRAYERS.

#### ASSENT TO BILLS.

Message from the Governor—No. 1.

The SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

The Governor was pleased, on the third day of July, in the year of Our Lord 1873, and in the thirty-seventh year of Her Majesty's Reign, in the name and on behalf of the Queen to assent to the following Act; that is to say:—

"An Act to Amend the Law concerning Warrants of Distress."

And on this eighth day of July, in the year of Our Lord 1873, and in the thirty-seventh year of Her Majesty's Reign, is pleased, in the name and on behalf of the