

Legislative Council, Tuesday, 20th December, 1892.

Perth Protestant Orphanage Lands Sale Bill: third reading—Perth Railway Crossing Improvement Bill: third reading—Public Health Act, 1886, Further Amendment Bill: referred to select committee—Police Act, 1892, Amendment Bill: committee—Federal Council Referring Bill: second reading; adjourned debate—Jury Exemption Bill: second reading; committee—Export Timber Branding Bill: report of select committee; Bill laid aside—Adjournment.

THE PRESIDENT (Hon. G. Shenton) took the chair at 2:30 o'clock p.m.

PRAYERS.

PERTH PROTESTANT ORPHANAGE LANDS SALE BILL.

This Bill was read a third time, and passed.

PERTH RAILWAY CROSSING IMPROVE- MENT BILL.

This Bill was read a third time, and passed.

PUBLIC HEALTH ACT, 1886, FURTHER AMENDMENT BILL.

THE COLONIAL SECRETARY (Hon. S. H. Parker) moved that the House do resolve itself into committee for the purpose of further considering this Bill.

THE HON. J. A. WRIGHT: In the name and on behalf of the Hon. Mr. Leake, I move as an amendment—That this Bill be referred to a select committee consisting of five members, and having power to call for persons and papers.

Amendment—put and passed.

A ballot having been taken, the Hons. J. G. H. Amherst, D. K. Congdon, G. W. Leake, J. Morrison, and the mover were elected to serve on the committee.

POLICE ACT, 1892, AMENDMENT BILL. IN COMMITTEE.

Postponed Clause 3.—“Repeal of section 93 of principal Act:”

THE HON. J. W. HACKETT said that by clause 93 of the principal Act lotteries were prohibited, and it was a clause which, in its main features, met with general approval. It was a clause adopted by a select committee of that House, and it was self-evident that unless such a clause were contained in the

Act it would be impossible to prevent gambling of the most extensive character from being carried on. In the select committee which sat upon the principal Act the evils of these lotteries were pointed out, and within the past few days they had had an example of how they had shaken a Government, if not undermined, the very form of government itself. He referred to the Panama Canal frauds. As the present Bill stood it would be possible to establish lotteries for all purposes, even for the disposal of estates. It had, however, been pointed out that clause 93 was capable of being applied further than was intended. It was said that it applied to what were called souvenir sweeps got up in private houses or on the racecourse, and although a case was pending on the subject in which it might be held that sweeps of this kind did not come within the Act, it was also quite possible that the decision might go the other way. It was, therefore, better to make the matter thoroughly clear. He knew that the Government, in another place, had not been willing to accept the repeal of the whole of clause 93, and he felt sure that the amendment he would propose would meet with their concurrence. The provisions contained in the clause were the law in Victoria, and the substance of them was in force in the United Kingdom. He had placed on the Notice Paper a clause which would, he thought at the time, meet the case, but he would now ask hon. members to allow him to alter the wording so that it would read: “‘So much of the ninety-third section of the principal Act as requires a “notice of any raffle at any bazaar to be “given to the Attorney General is hereby “repealed,” and the said section is further “amended by the insertion of the words “‘or sweep’ after the word ‘raffle,’ in the “thirtieth line.” This would have the effect of exempting all sweeps got up in houses or clubs. He moved this amendment.

THE HON. J. MORRISON said he would not support the amendment. He thought they were getting into a very bad state indeed when they were asked to legislate for the extinction of all lotteries except those in private houses, clubs, or churches. He did not object to lotteries, but he thought they should legislate upon

some defined principles. They should either do away with the clause altogether, or let it stand.

THE HON. T. BURGESS said he agreed with the Hon. Mr. Morrison, and he would vote for the Bill as it stood.

Question—That the clause proposed to be struck out stand part of the Bill—put.
The committee divided.

Ayes	7
Noes	6

Majority for ... 1

AYES.	NOES.
The Hon. J. G. H. Amherst	The Hon. J. W. Hackett
The Hon. T. Burgess	The Hon. E. Hamersley
The Hon. R. E. Bush	The Hon. R. W. Hardey
The Hon. D. K. Congdon	The Hon. E. T. Hooley
The Hon. G. Glyde	The Hon. J. A. Wright
The Hon. G. W. Leake	The Hon. S. H. Parker
The Hon. J. Morrison	(Teller).
(Teller).	

Question—That the clause stand part of the Bill—put and passed.

The preamble was agreed to, and the Bill reported.

FEDERAL COUNCIL REFERRING BILL.

SECOND READING—ADJOURNED DEBATE.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I believe the object of adjourning the debate on the second reading of this Bill on the last occasion was to enable the Government to say whether they would be in a position to bring in a Bill dealing with the defence forces of the colony during the present session. I then stated that a Bill had been drawn by the Commandant, and this morning I received a copy of that Bill. I have not had time to peruse it, but I have sent it to the Attorney General. It is a long Bill, consisting of 99 clauses, and whether it will be possible to introduce it or not I am now unable to say; but I am willing to further adjourn this debate until I am in a position to make some definite statement on the subject.

THE HON. J. W. HACKETT: It was on my motion that this debate was adjourned, and I earnestly hope the Government will be able to carry out their desire to bring in a Bill dealing with the defence forces of the colony. For my part I hardly see how it is possible to ask the Federal Council to make provision for the discipline of the garrisons of Western Australia unless we ourselves have an Act dealing with it. If we have

no law the Federal Council will be compelled to hand over the control of the forces to another colony which has a law dealing with the subject. Although I shall not be here when the matter comes on again for consideration, I do hope hon. members will give the question their fullest consideration; and, in the absence of a Bill such as I have indicated being introduced, I do trust hon. members will consider whether it will not be better to eliminate everything about the discipline of the garrisons, because it is not to be thought for one moment that this colony will be content to hand everything over to another Commandant, another Governor, and another colony.

THE HON. T. BURGESS: This Bill requires very serious consideration, and for the reasons referred to by the Hon. Mr. Hackett. The Federal Council, if this matter is referred to them, may pass some measure which may interfere with the government of this colony, and hence it is wiser that this Bill should be further postponed.

THE HON. J. A. WRIGHT: I move that the debate be adjourned until the next sitting after the recess. We hear now, for the first time, that the Commandant has drafted a Bill containing over 90 clauses, but in my opinion we want nothing more than the South Australian Act altered to meet the circumstances of this colony. I move that the debate be adjourned until 6th January next.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I do not see why the debate should be adjourned until 6th January, when by to-morrow evening I shall probably be able to say what the Government will be in a position to do. If I state that the Government are not prepared to bring in a Bill, it can make no difference to this Bill, because it is obvious we must have some law on the subject, otherwise we cannot have the troops. We have an officer coming from England to take charge of the troops, and unless we have a Bill we shall have none for him to command. Besides this, any law the Federal Council may pass will override what we may do, because the matter has already been referred to it by two colonies. The Commandant has drawn a Bill, the provisions of which are taken from the Acts of

South Australia, Victoria, and Queensland, and he thinks he has drawn an uncommonly good measure. It may be, of course, that if this Bill is passed there may be no necessity to refer this matter to the Federal Council; but hon. members must bear in mind that this garrison is to be maintained at the joint expense of the whole of the colonies in proportion to the population. The contribution of this colony will be very small as compared with what the other colonies will have to pay, and probably, therefore, they will require to have some voice in the management. Already, I believe, we have passed a Bill referring this matter to the Federal Council, and I cannot understand why any hon. member now objects to this Bill. I will ask my hon. friend not to insist upon postponing the consideration of this Bill beyond to-morrow evening.

THE HON. J. A. WRIGHT: I shall not be here then, and I must say that I feel some dread in leaving the matter in the hands of the hon. member, without having some idea of how far legislation on the subject may be pushed.

THE HON. J. G. H. AMHERST: If we had the other Bill before us we might then see whether or not it was possible to postpone this one.

THE HON. J. W. HACKETT: I agree that we should have the Military Bill before us, before we can tell whether we should proceed further with this one. If the proposition of the Hon. Mr. Wright is agreed to, it will leave the Hon. the Colonial Secretary plenty of time during the recess to run through the Military Bill and give us his opinion upon it. The Bill before us last session was to hand over the forts at King George's Sound to a foreign power—to South Australia. The Hon. the Colonial Secretary says that there is no desire on the part of the Government to hand anything over to another Government, but I am in a position to state that the gentleman who possesses great influence in the Federal Council, and who will represent Queensland there, was last session in favor of handing over these forts to South Australia, to place them under South Australian Military law, and to make the troops responsible to the South Australian Commandant, and the South Australian Governor. Composed as it thus will be, this is the body

we have to refer this question to, and I ask the House to consider very carefully before they take any step whatever in the matter. In the absence of any Military Act in this colony there will be no option on the part of the Federal Council but to place the forts under the control of some colony which has a Military Act, and that colony, in all probability, will be the neighboring one of South Australia, a colony which will not be represented in the Federal Council. I hope the House will agree to adjourn the debate until after the recess.

Question—That the debate be adjourned until 6th January, 1893—put and passed.

JURY EXEMPTION BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. S. H. Parker): This is a Bill which is brought in to exempt certain persons from serving on juries. The persons exempted are town clerks, captains or superintendents of fire brigades, schoolmasters, bank managers, chemists and druggists duly qualified and in actual practice, persons employed under any department of the Public Service, including all officers and servants of the Commissioner of Railways, and all officers and servants employed upon or in connection with any private railway. It must be obvious to hon. members that all these persons are properly and rightly exempted. I move the second reading of the Bill.

THE HON. G. W. LEAKE: I shall be in order, I think, if I move that this Bill be read a second time this day six months. I have had considerable experience of the administration of the law in many positions, and if anyone will take the trouble to peruse this Act he will agree with me that we are taking away from the jury class the most valuable and intelligent portion of it. Why should they be exempt? The same argument was applied to the case of justices of the peace, and it was said that they should be exempt because they were concerned in the summary jurisdiction, but the exemption was only allowed to apply where there are quarter sessions. It is a great pity to reduce the number of persons from which jurors may be selected,

especially when only the least intelligent part of the community is left. For many years we have heard of the mal-administration of justice by jurors. They take the bit between their teeth, and let her off because she is pretty, and him off because he is of a good colonial scion, and this all because we have the least intelligent class of the community on juries. I move that the Bill be read a second time this day six months.

THE HON. T. BURGESS: This seems to me to be an unnecessary Bill. In country districts particularly, it is a difficult matter to get a jury list of competent people. Bank managers, clerks, and Government officers are persons of more intelligence than ordinary people, and this is a strong reason why they should not be exempt. Besides this it is unfair to others who are left on the list, because they will be called upon to serve more frequently.

THE HON. J. A. WRIGHT: I regret to hear the remarks which have fallen from the last two speakers. Anyone would think from what they have said that the jury list depended upon one or two people. The only classes of persons the Bill really deals with are three. Government servants are already exempt, and the persons added are town clerks, superintendents of fire brigades, and railway employés. Then, the idea of the Bill is for the preservation of life and property. Bank managers have also been introduced, but how many are there in the whole colony? In Perth there are only four. Supposing a superintendent of a fire brigade were on the jury and a fire broke out, you would have to break up a trial in order that life and property might be saved. As to the railway servants, supposing a general manager, or traffic manager, or station master and two or three of the principal employés were on a jury and a bad accident occurred, what is to happen? The objections to this Bill are, therefore, as futile as anything I have heard, because in order that one or two persons may not be exempt the lives and properties of the public are to be jeopardised to any extent.

THE HON. J. G. H. AMHERST: I would accentuate what the Hon. Mr. Wright has said by referring to the case of duly qualified medical practitioners.

THE HON. J. A. WRIGHT: they are already exempt.

THE HON. J. G. H. AMHERST: I am glad this is so, because the surgery might otherwise be left in charge of a boy who did not know the difference between *nux vomica* and castor oil, and he might mix up a dose for someone which would cause death. I hope the amendment will be withdrawn.

THE HON. J. W. HACKETT: I am not prepared to oppose the second reading, because most of the classes have been inserted on reasonable grounds. I think, however, it will be necessary to be more explicit with regard to persons employed in the Public Service. A gentleman offered, some years ago, to take the true noon every day and telegraph it to Perth on condition that he got an announcement that he did it. He got nothing but this for his work; but when he was summoned on a jury he pleaded that he was a public servant and was exempt.

THE HON. J. MORRISON: I shall support the second reading, but when in committee I shall move to include justices of the peace. I cannot see why they should be called upon to serve on juries, especially as they are exempt in most other countries. They have very little honor and very often a great deal of trouble.

Question—That the words proposed to be struck out, stand part of the question—put and passed.

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

IN COMMITTEE.

Clause 1.—“Exemptions:”

THE HON. J. MORRISON moved to insert the words “justices of the peace” in the sixth line.

THE HON. J. W. HACKETT: This would sweep away the best part of our special jury panel.

THE HON. G. W. LEAKE: I think it would be detrimental to the body politic to extend the exemptions. There would be nothing easier if a person wanted to be exempt than to get himself made a justice of the peace.

Amendment—put and negatived.

THE HON. J. W. HACKETT moved that the word “under,” in the eighth line, be struck out, and that the words “solely

and exclusively in" be inserted in lieu thereof.

Question—put and passed.

Clause, as amended, agreed to.

Clause 2 agreed to, and the Bill reported.

EXPORT TIMBER BRANDING BILL.

REPORT OF SELECT COMMITTEE.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I move, sir, that you do leave the chair. I do so to enable the hon. gentlemen who formed the select committee on this Bill to make some remarks on their report. As far as I can see, the report virtually condemns the Bill, so that after hearing it I do not think it will be desirable to proceed further with the Bill.

THE HON. J. W. HACKETT: I move as an amendment, sir, that you do leave the chair this day six months. The reasons for this motion will be found in the report of the select committee on this Bill, and upon which it is hardly necessary for me to enlarge upon. They are contained in the following words:—

Your committee have to state that they have held four meetings, and have examined several witnesses interested both in the jarrah and the karri trade.

They have now to report that in consequence of the evidence taken they find that—

- (a.) If the Bill in its present form is to be made workable, it must have the exemptions from branding largely increased in number;
- (b.) That the operation of branding would be attended with considerable cost, both to the exporter and the Government;
- (c.) That the brand suggested would be too large for certain classes of timber;
- (d.) That its use might prove injurious in many cases;
- (e.) That many of the provisions of the Bill might, with more or less difficulty, be evaded;
- (f.) That some of its provisions are harsh to the exporter, making him, for example, personally liable for the laches of his servant, and might be made a weapon for blackmailing and malicious injury to the employer;

They therefore recommend that the Bill be laid aside. They would suggest, however, that as they have been informed by several of the witnesses that an infallible test is afforded by the burning of the two timbers, jarrah

furnishing a black ash, and karri a white ash, the utmost publicity should be given to this fact by the Government wherein our hardwood timbers are employed.

The minutes and the evidence taken before the committee are annexed.

J. W. HACKETT,
Chairman.

Rider.

I disagree with the report of the select committee in the majority of its details.

J. ARTHUR WRIGHT.

December 19th, 1892.

I may say that we held four meetings and examined several witnesses, and in view of the evidence the majority of the committee think it impossible to proceed with the Bill. The committee, however, think that it is desirable that something should be done to let the test between the two timbers be generally known, and they suggest that publicity should be given to it by the Government wherever our hardwood timbers are employed.

THE HON. J. A. WRIGHT: I rise to second the amendment before the House. No Bill, in my opinion, was ever brought in which was so much against the export trade of Western Australia. I have very little to say now, inasmuch as I feel certain that the House will pass the amendment to go into committee on this Bill this day six months. The Bill, to my mind, was only brought forward to cast a slur on a timber which constitutes the largest part of the export trade of the colony now that there is so little doing in sandalwood, and this in order to advance the interests of a rival timber. Under such circumstances it would be contrary to the best interests of the colony if such a measure were allowed to become law. At the present time the export of karri is double that of jarrah. The one is increasing and the other not, and it was simply on this account that this Bill was ever proposed.

THE HON. D. K. CONGDON: As a member of the select committee I may say that the members of it were very much influenced by the desire not to do any damage to either timber, but, if possible, to show some means of distinguishing one timber from the other, and this has been done. From the evidence taken it was found that while karri was useful for many purposes, jarrah was also equally useful.

THE HON. J. A. WRIGHT: You called five witnesses for jarrah and one for karri.

THE HON. D. K. CONGDON: You were at liberty to call others.

THE HON. J. A. WRIGHT: I did not nominate any.

THE PRESIDENT (Hon. G. Shenton): The hon. member must not refer to what took place in select committee.

THE HON. J. G. H. AMHERST: The hon. gentleman opposite is, I think, answered by the evidence taken by the select committee, and this is all I have to say on this question.

Amendment—put and passed. Bill laid aside.

ADJOURNMENT.

The Council, at 4:30 o'clock p.m., adjourned until Wednesday, 21st December, at 8 o'clock p.m.

Legislative Assembly,

Tuesday, 20th December, 1892.

Midland Railway Company's Proposals: Report of Joint Parliamentary Committee—Sums paid by Government to Newspaper Proprietors—Return asked for by Mr. Monger—Industrial and Reformatory Schools Bill: Legislative Council's Amendments—Manufacture of Wines Bill: thrown out, on motion for going into committee—Company's Bill: in committee—Message from Legislative Council assenting to Bills—Adjournment.

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

PRAYERS.

MIDLAND RAILWAY COMPANY'S PROPOSALS.

REPORT OF JOINT SELECT COMMITTEE.

THE PREMIER (Hon. Sir J. Forrest) brought up the report of the select committee of the Legislative Assembly appointed to confer with a similar committee of the Legislative Council upon the proposals of the Midland Railway Company.

Ordered—That the report be printed and lie upon the table.

SUMS PAID BY GOVERNMENT TO NEWSPAPER PROPRIETORS.

THE PREMIER (Hon. Sir J. Forrest): With regard to the first question on the Notice Paper, in the name of the hon. member for Gascoyne—asking if the returns laid upon the table of the House showing moneys paid by the Government to newspaper proprietors included all moneys so paid, for all services rendered, whether by advertisement or otherwise—I am not prepared at the present moment to lay this information before the House, as the return is not ready, but I am informed by the Audit office that so far as they have gone, there does not appear to have been anything paid, in addition to the sums paid for advertisements, except for subscriptions. Those amounts will be found in the return asked for the other day by the hon. member for Albany under the head of Miscellaneous and Incidental expenses during 1891 and 1892. I am now able to lay on the table the return under the head of incidental expenses for 1891, and to-morrow I shall probably be able to lay the return for this year on the table. These returns will of course include the subscriptions to newspapers. So far as I can gather from the Audit Office, there does not appear to be anything else; but the return will speak for itself. As to job printing, I do not think that either of the two local journals do any job printing; that is generally done by Sands & McDougall and other private firms. Perhaps this information will satisfy the hon. member.

RETURN ASKED FOR BY MR. MONGER RE PUBLIC WORKS DEPARTMENT.

MR. MONGER, without notice, asked the Commissioner of Railways when the return he had moved for some days ago, relating to the staff employed in the Public Works Department, would be laid on the table?

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) said the document was being prepared, and would be laid on the table as soon as it was ready.

INDUSTRIAL AND REFORMATORY SCHOOLS BILL.

The schedule of amendments (*vide p. 454, ante*) made by the Legislative Council in this Bill agreed to, without comment.