

LEGISLATIVE COUNCIL,

Friday, 4th August, 1882.

Vaccination of Natives—Appropriation Bill (Supplementary), 1882—Poor Houses Discipline Bill: third reading—Hawkers Bill: further considered in committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

VACCINATION OF NATIVES.

MR. GRANT, in accordance with notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to take steps to enforce the Vaccination Act in the North District by having the native population vaccinated." The hon. member said his attention had been drawn to this matter on reading the report of the Colonial Surgeon, who said that "with the frequent cases of small-pox occurring in the Eastern Colonies, the disease must ere long, notwithstanding quarantine, be introduced and spread in this." This was a very serious admission. Some years ago, our native population at the North suffered very severely from this dreadful disease,—in fact, we lost one-half of them through it. It was one of the most horrible sights he ever witnessed to see how the poor creatures suffered who were attacked by it. He should never forget it. Thanks to the discovery of Dr. Jenner, who, he thought, might be considered the greatest benefactor of mankind, a preventative had been found against the ravages of this disease, and he saw no reason why these poor creatures, the blacks, should not have the advantage of that grand discovery. They were now becoming very useful members of society, and their destruction by disease or otherwise would be a great loss to the community, in the Northern part of our territory. Therefore he asked the House to adopt this Address. He did not think it would cost anything to carry out the proposal referred to,—and that was a consideration which he believed was likely to commend it to some hon. members in that House. He was sure that Dr. O'Meehan would readily do his part, and he was also sure

that the Inspector of Fisheries would do all in his power, to carry out the object in view. It was a solemn duty which we owed to these poor creatures, and he appealed to the humanity of the House, and to the Government no longer to neglect that duty.

MR. BROWN said he had much pleasure in seconding the motion for the adoption of this Address. Probably it would not be at all possible for the Government to carry out literally what the Address contemplated, namely, to have the whole of our native population at the North vaccinated; at the same time, no doubt something might be done towards enforcing the provisions of the Act in this respect, and probably some good would result from calling the attention of the Government to the matter. He could endorse what had fallen from the hon. member for the North as to the ravages committed by small-pox among the aborigines in that district some years ago. He had himself seen dead bodies of natives lying alongside the paths and near the water-holes, bearing shocking proofs of how they had suffered, and of the great havoc which the disease had committed amongst them. He had also seen some of those who had recovered from it, and the horrible sight which they presented was something dreadful. It appeared to him that; not alone in the interests of the natives was it desirable that steps should be taken in the direction indicated by the Address, but also in the interests of the European population who had settled in the district. It was well known that a great many Malays and others came to our North-West settlements from countries in the East, where small-pox was prevalent, and he had no doubt it was in this way that our own natives contracted the disease. The hon. member for the North said it would not cost anything, probably, to carry out his humane suggestion, and perhaps it would not,—at any rate not a great deal, though no doubt if the provisions of the Vaccination Act were strictly and universally enforced it must necessarily entail some expense in the shape of lymph and vaccination fees; but, so far as he was concerned, he thought the object in view ought to be carried out, at any reasonable cost.

MR. MARMION thought it would be a good plan, in order to familiarise the natives with the operation, to vaccinate all those who are sent to the penal establishment at Rottneest.

THE COLONIAL SECRETARY (Lord Gifford) said it was not his intention to oppose the adoption of the Address, but the Government did not know what more could be done to enforce the Vaccination Act in the North District. All aborigines came under the operation of the Act as well as the whites, and from all other districts returns of such having been vaccinated were periodically received. The Public Vaccinator of Roebourne was, on demand, always supplied with lymph, but of course in such a scattered district it was impossible for him to keep up arm to arm vaccination, which was the most satisfactory plan, as the lymph, being kept for any time, was apt to deteriorate. When any portion of the native population happened to be concentrated, as at a station like Mr. Grant's, there could be no difficulty about the matter,—the Public Vaccinator acting up to his instructions; but it might be somewhat hazardous for him to hunt up natives in the bush, in order to carry out the provisions of the Act. The Government would, however, endeavor to enforce the Act more fully as regards the natives.

MR. VENN said this matter was brought under the attention of the Government years ago. He was in the very midst of the natives when the disease broke out amongst them at the North, and, with a view to alleviate its distressing ravages, he communicated with the Government of the day, and he himself offered to vaccinate all those who were within a reasonable radius of his station, free of cost; but he received no reply whatever to his communication. Had lymph been then sent to the district, he had no doubt other settlers, like himself, would have undertaken to use it upon the natives, and so assisted to prevent the spread of the disease which subsequently took place. The hon. member for Geraldton spoke of the disease as having probably been introduced by Malays, but he differed in opinion from the hon. member on that point, for the last time it broke out in the North it broke out, so to speak,

spontaneously among natives who had not come in contact with any person who had come from the Malayan Archipelago. It was quite possible that the disease was still lurking amongst them, and there was no knowing when it may break out with greater virulence than ever. The reply of the noble lord, the Colonial Secretary, was simply an official reply, and it scarcely met the case. No doubt the proposal of the hon. member for the North would be attended with some considerable difficulty, but it was a difficulty that was worth trying to surmount, and the Government should exhaust every means in their power to do so. These natives congregated in large masses on the pearling grounds, thus affording a good opportunity for vaccinating them, and probably the beneficial effect of the operation upon these might induce others to submit themselves for vaccination. An effort should particularly be made to get the younger natives inoculated. The process was a very simple one. It could be done by anybody who possessed as much brain as a mosquito. But as for applying the provisions of the Act to the natives—so far as expecting them to come forward of their own accord to be vaccinated went—they might as well try to apply it to kangaroos.

The motion was then put and carried.

APPROPRIATION BILL (SUPPLEMENTARY), 1882.

THE COLONIAL SECRETARY (Lord Gifford) moved the first reading of a Bill intituled "An Act to provide for the payment of certain additional and unforeseen expenses in the year 1882, over and above the Estimates for that year."

Motion agreed to.

Bill read a first time.

POOR HOUSES DISCIPLINE BILL.

Read a third time and passed.

HAWKERS BILL.

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

Clause 7—reverted to.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) moved, That this clause be struck out, and the following clause

inserted in lieu thereof: "Every person desirous of obtaining a license under the provisions of this Act shall, four weeks at least before applying for such license, deliver in to the Clerk of the Bench of Magistrates, to which such application is to be made, a notice in writing of his intention to apply for the same; which notice, if the application be for a license in the form in the First Schedule, shall be in the form in the Third Schedule to this Act; or, if the application be for a license in the form in the Second Schedule, then such notice shall be in the form in the Fourth Schedule to this Act. Every such notice shall, as soon as it is so delivered, be affixed to the door of the Court House of such Bench of Magistrates, and every applicant shall also publish a copy of such notice in a newspaper circulated in the district within which his application is made, at least fourteen days before he shall so apply. Provided, however, that such publication shall not be necessary in the Northern District, as defined by this Act." It would be in the recollection of hon. members that the original clause simply provided that the applicant should give notice in writing to the clerk of the Bench, but it was pointed out by the hon. member for Wellington that some greater safeguard ought to be provided, in order to enable the public to judge of the character of the applicants for these hawkers' licenses. It was therefore now proposed, in pursuance of the hon. member's suggestion, that, in addition to giving a notice in writing to the clerk, the applicant shall also publish a copy of such notice in some newspaper, and that the notice shall be affixed to the Court House door.

The original clause was struck out, and the new one agreed to.

Clause 8.—Persons applying for licenses to hawk to obtain a certificate of good character from at least two known and respectable inhabitants of the district within which the license is to be in force:

Agreed to without discussion.

Clause 9.—Applicant for license to hawk with pack horses to enter into a recognizance, with two approved sureties, that he will conform in all respects to the provisions of the Act, failing

which his recognizance will be estreated:

Agreed to *sub silentio*.

Clause 10.—A fee of £1 payable in respect of a license authorising the holder thereof to carry his wares on his own person, and a fee of £2 for a license to hawk with pack horses:

This clause was also adopted without discussion.

Clause 11.—Duration of license (not to exceed one year, without renewal):

Agreed to.

Clause 12.—District within which such license to have effect:

Agreed to.

Clause 13.—For the purposes of this Act every magisterial district shall be taken to comprise such limits as may be set forth by any notice issued by the Governor in Council, and published in the *Government Gazette*:

THE ATTORNEY GENERAL (Hon. A. C. Onslow) moved, That the following new clause be added to the Bill, to stand as clause 13:—"For the purposes of this Act the Colony shall be divided into three districts, the Northern, the Central, and the Southern: each of such districts shall be comprised within such limits only as are set forth in the Sixth Schedule to this Act; and the said limits shall be published in the *Government Gazette*. Applications for licenses may be made to, and shall only be issuable by the following benches of Magistrates, that is to say:—In the Northern District, by the Roebourne Bench; in the Central District by the Geraldton, Northampton, or Dongarra Bench; in the Southern District by the Perth, Fremantle, York, Newcastle, Bunbury, the Williams, Pinjarrah, Vasse, or Albany Bench."

MR. CROWTHER asked the Attorney General what provisions were made for punishing a man who committed a breach of the Act within another district than that for which he held a license?

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said that no license granted under the provisions of the Act would have any force or effect in any part of the Colony other than the district in respect of which it was granted, so that a man who exercised the privileges of his license outside that district would be liable to the same punishment as if

he carried on the business of a hawker without a license at all, and would be liable for every such offence to a penalty not exceeding £20.

The clause was then agreed to.

Clause 14.—Unlicensed persons carrying on business as hawkers to be detained by the police, for the purpose of being proceeded against:

Agreed to *sub silentio*.

Clause 15.—Every hawker to have the words "Licensed Hawker" painted or printed, in large legible letters, upon some conspicuous part of "every pack, bag, box, trunk, case, cart, dray, wagon, boat, or other vehicle or conveyance in or with which he shall carry on his business:"

MR. STEERE thought it would be hardly necessary to have the words "Licensed Hawker" printed on every single pack, and bag, and box, which a man carried about with him.

MR. RANDELL thought it would be sufficient, in the case of a pedlar, to have the words printed on the pack containing his wares, and, in the case of the hawker, on his cart.

MR. CROWTHER thought, as the Bill was not wanted, or was ever likely to be anything but a dead letter, until we had a very different state of society, it might as well be insisted that these words should be printed on every separate package which a hawker carried about with him. There could be no mistake about it then.

MR. BROWN said if one wanted to be hypercritical, one might suggest the necessity of altering the whole wording of this clause. As a rule, people did not carry on business—not even a hawker's business—"in" a pack, or a bag, or a trunk; but the clause as now worded contemplated that style of doing business.

MR. CROWTHER moved to strike out the word "boat." If people were allowed to hawk goods about in boats, the revenue would be largely defrauded. He thought it would be most undesirable to allow hawking on their rivers or in their harbors; it would simply be offering a premium for smuggling.

The motion of the member for Greenough was agreed to, and the clause as amended adopted.

Clauses 16, 17, and 18—penalties for

breaches of the Act—agreed to without discussion.

Clause 19.—Hawkers having any fermented or spirituous liquor in their possession liable to a penalty not exceeding £20:

MR. MARMION thought this was a very stringent clause, and that its very stringency would defeat the object in view. It seemed a very hard case that these poor hawkers should be debarred from carrying even a "pocket pistol" about them. He heard the noble lord the leader of the Government say the other evening that he thought it would be very hard to deprive a poor man in the bush of his pipe; but he (Mr. Marmion) thought a poor man in the bush might want a little drop of something in the shape of medical comfort, as well as his pipe. This clause would render him liable to a heavy penalty if he was found with even a flask of brandy in his possession.

MR. S. H. PARKER said the probability would be that the flask, like the historical cruse of oil, would always be full.

MR. CROWTHER did not think the clause was stringent enough. He would make the fine still heavier. He thought every precaution ought to be taken to prevent the hawkers—mail-men as they were called—carrying grog and disposing of it to shepherds and others employed on country stations. He would make the penalty £50.

MR. VENN, on the contrary, thought the clause was too severe as it stood. The penalty which it provided was not for selling liquor, but simply for having it in one's possession.

The clause was then agreed to.

Clause 20,—Providing that in case any person shall have reasonable ground for suspecting any hawker or pedlar is carrying fermented spirituous liquors contrary to the provisions of the Act, or otherwise offending against the same, it shall be lawful for such persons to make oath before any Justice of the Peace, at his residence or elsewhere, of the circumstances, and, if it shall appear to such justice that reasonable ground for suspicion exists, it shall be lawful for him to grant a warrant authorising such person to search and examine packs and conveyances suspected to con-

tain such liquors, and if any be found to seize it. The offending hawker to be liable to a fine not exceeding £30, and to be imprisoned with hard labor not exceeding six months. The liquors seized to be sold by auction, and after deducting the expenses of the sale, half the proceeds to be paid to the prosecutor, and the other half into the public Treasury:

MR. RANDELL condemned the stringency of this clause, and pointed out what a dangerous weapon it would be in the hands of any unprincipled or revengeful person, who might use it in a most malicious manner, as regards any hawker against whom he had a grudge. Some provision at any rate ought to be made requiring the search to be made in the presence of a third party. Indeed, he objected to any such power being placed in the hands of any private individual; he thought the search should only be conducted by a police constable. There also ought to be some provision made for punishing a man who laid an information without reasonable ground for doing so.

MR. MARMION quite concurred with what had fallen from the hon. member who had last spoken, but he had not intended offering any opposition to the clause. It appeared to him there was an intention on the part of Government to bring in a Bill that would never become operative. The business of a hawker would be hedged around with so many ridiculous restrictions that he ventured to say not half a dozen people would think of entering upon the business. The power which this clause proposed to place in the hands of any private individual who chose to use it was simply monstrous, and such as, so far as he was aware, was not provided in any other Act on the statute book. A spiteful man who had a grudge against another would thus be afforded a nice opportunity not only of venting his spleen, but also of securing a bonus for doing so,—such a bonus, in fact, as he (Mr. Marmion) would wish to see eliminated from every Act of Council which made provision for it. He alluded to the provision under which a moiety of a fine went to an informer,—which, in his opinion, was a most vicious and demoralising principle.

MR. CROWTHER saw no objection to

the suggestion made by the hon. member Mr. Randell,—that the search should only be made by a policeman, beyond the obvious one that there might not be a policeman anywhere about. These hawkers would not ply their vocation near towns and the centres of population, where policemen, as a rule, were as plentiful as berries, but in the remote bush, where possibly there might not be a gentleman in blue within a couple of hundred miles. He should be really sorry to see the Bill made more ridiculous than it was already.

MR. RANDELL shared the high opinion which the hon. member for Greenough seemed to entertain with reference to the Bill, which, in his opinion, was altogether uncalled for, and he was sorry to see such an Act brought in. This clause reminded him of the worst days of the Star Chamber. It was a most dangerous power to place in the hands of any individual, who was desirous of venting his spleen against another.

MR. CROWTHER pointed out that any gentleman who would lay such a trap as was contemplated by the hon. members who objected to the stringency of this clause, must be in a position to afford a very expensive luxury indeed, for, in the first place, he would have to hunt up a Magistrate to get a warrant to search a man's pack, and, when he got it, he would have to chase his man all over the bush, before he could execute it.

MR. BROWN said the clause was not so stringent as some hon. members seemed to regard it. It would not allow of any unscrupulous person to search a hawker's pack or conveyance, on any frivolous pretext; he must in the first place satisfy the Magistrate that there was reasonable ground for suspicion. He did not think there was a likelihood of anything vexatious being done under this clause, and, if they were to limit the right of searching to police constables, the object of the Act would probably be defeated, as pointed out by the hon. member for Greenough.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said hon. members were aware, no doubt, that this Bill was somewhat pressed upon the Government, and they were given to understand it ought to be hedged around in every possible

way against anything that would afford a loophole for the sale of liquor by these hawkers. He had carefully watched what seemed to be the feeling of the House, and he took it that, with the exception of the hon. member Mr. Randell and the hon. member for Fremantle, who had come forward as the champions of the hawkers, the feeling of the House was in favor of the Bill. Those two hon. members alone seemed to consider its provisions too stringent. He gathered from the somewhat eloquent silence of other hon. members that there would be a large majority in favor of leaving this clause unaltered, and unless the hon. member Mr. Randell should have the courage of his opinions and submit the question to the test of a division he was not prepared to admit that the Bill was in any way too stringent.

MR. MARMION said he did not appear as the champion of the hawkers, but as the champion of the liberty of the British subject. He did not think it was right that any man should be subjected to such harassing treatment as this clause would subject these unfortunate hawkers to.

MR. STEERE said it appeared to him the only man who would have any cause for complaint would be the hawker who wished to break the law, and to evade the consequences. He failed to see what possible hardship it would entail upon the honest hawker, who did not seek to infringe the provisions of the Act. It would be impossible almost to provide against the illicit sale of grog by these hawkers, in some districts of the Colony, without some such provision as this; and it would have been useless for the Government to have brought in the Bill unless it was hedged around with the most stringent provisions with regard to this practice of sly grog-selling.

MR. RANDELL still maintained that the power which this clause placed in the hands of private individuals was a most dangerous power to embody in any Act, and a power that was open to the very gravest abuses. Such a thing had been heard of in the world as collusion between a Justice of the Peace and an informer, and he thought it was the duty of the Legislature to prevent anything like a chance for such a thing taking place. The man who searched ought at any rate

to be accompanied by a witness, otherwise nothing would be easier for an unprincipled man than to slip in a bottle into a hawker's cart, and then lay an information against him.

MR. S. H. PARKER said that having hitherto been so "eloquently silent," he did not care to speak on the Bill, but he would point out to the hon. member Mr. Randell that the argument he had brought forward against this clause was one which he might with equal force bring against the whole criminal law. If a vindictive and unscrupulous man wished to gratify his spite by fabricating a charge of larceny against another, nothing would be easier than to slip a spoon into his pocket or to conceal some stolen article on his premises, and then lay an information against him. As to the principle of paying half the fine to an informer, the same principle was adopted in other cases, and there was nothing novel about it.

MR. BURGESS failed to see what possible good the Bill would do to the public. As for sly grog-selling, they might hedge the hawker about with as many restrictions as they pleased, but they would not put an end to the practice of selling grog to shepherds and others employed on outstations.

MR. RANDELL moved an amendment, to substitute the words "police constable" instead of "such person" after the word "authorising" and before the words "examine and search," so as to limit the power of searching to police officers.

MR. CROWTHER said that would render the clause nugatory altogether, as he had already pointed out, for there might not be a policeman within a hundred miles of the spot where the hawker was plying his business.

The amendment was negatived, on the voices, and the clause agreed to as printed.

Clause 21.—Justices and constables may seize liquors hawked about for sale, and any vehicle or animal used for conveying the same:

THE ATTORNEY GENERAL (Hon. A. C. Onslow) moved, That the words "as well as any boat, in the conveyance of" "such liquors" be struck out. He did this, as it was proposed to prohibit hawking in boats, the hon. member for

Greenough having carried the Committee with him to that extent.

Clause 22.—Penalty on hawkers for selling smuggled or stolen goods:

Agreed to without discussion.

Clause 23.—Penalty for hiring or lending license:

Agreed to *sub silentio*.

The remaining clauses were also agreed to without comment.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said it had been pointed out to him that the powers granted under this Bill in respect of issuing licenses to hawk might interfere with the rights of Municipal Councils, under the 9th section of the 44th Vict., No. 11, which authorises these bodies to grant licenses for hawking fish, fruit, or vegetables and to charge such fees for the same as their by-laws may provide. In order to meet this difficulty, he would move the following additional clause to the Bill, to stand as clause 24:—"No thing contained in this Act shall be taken to be in derogation of the powers conferred upon the council of any municipality to grant licenses and to charge fees therefor under the provisions of the 'ninth section of 'The Municipal Institutions Further Amendment Act, 1880;' and every such council may exercise any such powers thereby conferred in the same manner as if this Act had not been passed."

The clause was agreed to without opposition.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said occasion might arise when it would be expedient to issue temporary licenses, merely for a temporary purpose, when it would be hardly worth while going to the expense of taking out an annual license. In order to meet this requirement, he would move the addition of the following new clause to the Bill, to stand as clause 25:—"Temporary licenses may be granted by any Resident or Police Magistrate at his discretion within the district within which the license is to be used; such licenses shall be valid and available for the space of three days only, and for the same the following fees shall be payable: for a hawker trading on foot, the sum of 5s.; for a hawker trading with a pack or with a cart and animal, 10s. Upon the payment of the fee as

"aforesaid it shall be lawful for the Magistrate to give his certificate in writing to the effect that he has granted such license to the person paying such fee, and such certificate shall serve and be available to such person instead of a license for all intents and purposes during such period."

The clause was agreed to *sub silentio*.

MR. CROWTHER then moved, That the following new clause be added to the Bill, in pursuance of the intimation he had already given, at an earlier stage of the Bill:—"Notwithstanding anything in this Act contained, no license granted under the provisions of this Act shall authorise any person to carry on the business of a hawker in any boat or other vessel upon any of the seas, waters, or rivers of the Colony."

The clause was agreed to without opposition.

Schedules agreed to.

Bill reported.

The House adjourned at half-past nine o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 7th August, 1882.

Increased Representation, North District—Disparaging Statements in the *Australasian* and the *Adelaide Observer*—Expenses, Superintendent of Roads—Proposed Works on Bunbury Jetty—Bills of Sale Act Amendment Bill: first reading—Petition re Railway Platform at West Perth—Customs Ordinance, 1860, Amendment Bill: first reading—Jury Act, 1871, Amendment Bill: first reading—Imported Labor Registry Bill: first reading—Masters and Servants Act Amendment Bill: first reading—Stamp Act, 1881, Amendment Bill: referred to Select Committee—Statutes (Errors) Amendment Bill: second reading—Appropriation Bill (Supplementary), 1882—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

INCREASED REPRESENTATION, NORTH DISTRICT.

MR. GRANT, in accordance with notice, moved "That an Humble Address