

(No. 79.)



1881.

T A S M A N I A.

LEGISLATIVE COUNCIL.

DOUBTS REMOVAL BILL, [No. 22]:

OPINION OF THE SOLICITOR-GENERAL.

Laid upon the Table by Mr. Moore, and ordered by the Council to be printed,
August 16, 1881.



OPINION.

I UNDERSTAND the point on which my Opinion is asked is this, viz.—“Whether the Legislative Council has power of itself to declare that at the time of Mr. Scott's election for the District of Tamar the seat for that District was vacant?”

The Constitutional Act (18 Vict. No. 17) received the Royal Assent; and by Section 14 it is enacted that “whenever any question shall arise respecting any vacancy in the Legislative Council the same shall be heard and determined by the Council itself.”

Then, has such a question arisen? If it has, it is difficult to imagine words stronger than those quoted which would have the effect of constituting the Council the sole tribunal to decide if the seat was vacant or not. On this point the Council may decide rightly or the contrary; but I do not see how their decision can be legally called in question.

I have not overlooked Section 122 of 21 Vict. No. 32 (“The Electoral Act”); but its language does not seem to me to clash with Section 14 of the Constitutional Act, as the former appears to refer to a different class of cases, and I may observe that the Electoral Act was not reserved for the Royal Assent. If the suggestion that the Council is the sole tribunal to decide on the vacancy of a seat is correct, I should entertain very great doubt whether an Act passed by Parliament for the purpose of removing doubts on the subject would have effect unless it was reserved for and received the Royal Assent.

ROB. P. ADAMS.
16 Aug., 1881.