

MR. H. W. SHOLL : The settlers will have to depend on re-stocking their runs and getting back to their old position by the increase, and they cannot do this if the rents are to be increased 50 per cent. in the North-West and 25 per cent. in the North. By doing away with that increase, you will be assisting the distressed settlers to recover; and that is the course I recommend.

MR. SIMPSON : I move the adjournment of the debate until the next sitting.

Question—put and passed.

Debate adjourned.

ADJOURNMENT.

The House adjourned at 10:45 p.m.

Legislative Council,

Friday, 11th March, 1892.

Appropriation Bill: first reading—Midland Railway: length of—Leave of Absence to Hon. M. Grant—South-Western Railway Act Amendment Bill: third reading—King George's Sound Garrison Discipline Bill: second reading—Police Bill: error in: conference with Legislative Assembly—Geraldton Harbor Improvements—Cossack Harbor Improvements—Game Bill: Legislative Council's Amendments—Adjournment.

THE PRESIDENT (Sir T. Cockburn-Campbell, Bart.) took the chair at 3 o'clock.

PRAYERS.

APPROPRIATION BILL.

This Bill was received from the Legislative Assembly, and was read a first time.

MIDLAND RAILWAY: LENGTH OF.

THE HON. J. A. WRIGHT, in accordance with notice, asked the Colonial Secretary, — (1.) What is the exact length of the Midland Railway as now set out? (2.) What is the exact length now certified as opened for traffic?

THE COLONIAL SECRETARY (Hon. G. Shenton) replied:—(1.) 277 miles 58 chains; (2.) 154 miles.

LEAVE OF ABSENCE TO HON. M. GRANT.

On the motion of the Hon. T. BURGESS leave of absence for a fortnight was granted to the Hon. M. Grant.

SOUTH-WESTERN RAILWAY ACT AMENDMENT BILL.

This Bill was read a third time and passed.

KING GEORGE'S SOUND GARRISON DISCIPLINE BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Shenton): I have now to move a second reading of this bill. I may state that the bill is brought in at the request of the other colonies. Under the arrangement made with the other colonies the battery at Albany is to consist of a portion of a South Australian force. Therefore, we are requested to pass a bill providing that the men should be under the same discipline and regulations as they would be if they were in their own colony.

THE HON. J. W. HACKETT: The tenor of the remarks which I have to make on this bill will largely take the form of questions to the hon. the Colonial Secretary. I trust the House has given its full attention to the only effective clause in the bill, the first, which reads:—"That the troops raised in South Australia, while serving in Western Australia, shall be subject to all the provisions of the South Australian 'Military Force Act, 1878,' and the regulations made thereunder, to the same extent and in the same manner as if such Act was a law of Western Australia." I should have liked to have been informed, in the first instance, whether the Colonial Secretary believes this law will not be *ultra vires*, that is, whether it is within the competency of the Parliament of Western Australia to declare that any number of men who come from another colony can be made subject, not to our laws, but to the laws of the colony they have just left. Take, for example, the case of the Merchant Shipping Act, which is an

Imperial Act, and which runs in all these colonies. Now if that were not in force here, and each colony had to make its own laws as regards maritime matters, could we say that all the shipping belonging to Western Australia and registered in Western Australia should be subject to the maritime law of, say, Victoria? It will be seen at once that the form of this Act goes as far as that. Where are these regulations to be enforced? Are they to be enforced in the courts of this colony, or in the courts of South Australia? Now I hold in my hand a copy of the South Australian Act which is referred to, and I should have liked the hon. the Colonial Secretary to have drawn our attention to its clauses, and to have pointed out, as far as he could, how the difficulties which suggest themselves to anyone after a perusal of them can be overcome. The Act is not a very long one, and it is proposed to adopt it here, and thus it should become one of our laws. How far it will become one of our laws it will be for the Colonial Secretary to tell us. If this South Australian Act is looked into, it will be found that the word "Governor" occurs frequently. The "Governor" fixes the salary of the Commander and the "Governor" makes regulations, etc. Now, which Governor is that to be—the Governor of South Australia, or the Governor of Western Australia? In another place I see that the Governor is to do certain things by commission under his hand and under the seal of the province. This, surely, is the seal of the province of South Australia. "Under his hand and seal," he may appoint a commanding officer. Throughout, the Governor is spoken of in reference to South Australia and not Western Australia. The commanding officer is referred to. Now, what commanding officer is that? Is it the commanding officer appointed by the South Australian Government, or is it the commanding officer of the troops in this colony? I go a little further, and I find regulations with regard to court martials. It is provided that the proceedings of court martials are to be transmitted to the Attorney General for record in his office. What Attorney General? The Attorney General of Western Australia, or the Attorney General of South Australia? Then there

are a number of offences referred to in the Act for which penalties are provided. Where are these to be enforced? In Western Australia or in South Australia? Then there is to be an appeal; but this appeal is to the Local Court of Adelaide, and not the Local Court of Albany. Sir, it seems to me that there is to be a sort of dual control with two Governors, two commanding officers, two Attorneys General, and two Local Courts. I really cannot follow it; I am perfectly at sea. This confused state of things is bad enough, but we have further to remember that it is a serious matter to establish a force belonging to another country (for, for this purpose, we may consider South Australia another country) in one of our ports—a force in charge of the fortifications and one certainly able to control the town and its inhabitants easily. And yet we are not to have any voice in the matter of control. All the directions given to these soldiers are the directions of another power, and not the directions of our own Government, and the regulations made in connection with that force are not necessarily even to be communicated to this Government. In short we are not to have any voice whatever in the matter of the control or regulation of these troops. I say it is a very serious matter, even looking at it from a Constitutional point of view, and all the more serious when we find that this Act is, so to speak, perpetual, until, of course, it is repealed. There is no limit given to the Act. If even the hon. the Colonial Secretary satisfies us on most of the points which I have raised, I shall still think this Bill should only be made temporary; and certainly we should obtain fuller information before we agree to pass it. I understand that information has been received from the other colonies strongly urging the adoption of this bill; but I hope the hon. the Colonial Secretary will add to his very brief remarks a statement as to these communications. I understand that the Federal Council has absolute power to pass an Act upon this subject on the application of a certain number of the colonies. I should like to know if this is the case, and if it is so, whether it is the intention of the Government to make such an application? I do not wish to delay the House any longer. I presume

the hon. the Colonial Secretary will not go into committee on the bill to-day, as the important questions I have raised require some consideration. I have no intention of voting against the bill if I am assured by the Government it is necessary; but we should certainly have some more explicit information from the Colonial Secretary as to it.

THE HON. G. W. LEAKE: I shall support the Hon. Mr. Hackett. This bill as it stands unexplained is simply a piece of nonsense, and very expensive nonsense. How are we to take notice of what the law is in the other colonies on this topic? It may be true that South Australia has passed an Act, but unless it is placed as a schedule to this Act how are we to know anything about it? If a magistrate acted on this Act, how is he to justify himself? I really cannot allow a bill of this sort to be passed without raising a strong protest against it. We should be laughed at if we passed it. How would a West Australian judge support a conviction under it? We must bear in mind that some rascal may find himself adjudged guilty of a breach of discipline, and after being punished may get the conviction set aside and bring his action for false imprisonment. The only way to get over the difficulty is to put the military law of South Australia into the schedule of this Bill. I cannot conceive how it is possible in its present bald and nude shape that the Bill came to pass the other House. We are told that telegraphic communication has taken place with the other colonies in respect to this Bill. Suppose forty telegraphic communications have taken place, how can we possibly say here what the law is there without defining it? To bring such a bill as this before us is like treating the House as a parcel of children. I shall move that the bill be read again this day three months.

THE HON. J. G. H. AMHERST: It appears to me that this is merely a bill relating to discipline. I am informed that the force which will come over here is only a matter of 25 or 28 men. These men are under military discipline in South Australia, and certain power must be given to the officer commanding them to punish for any act they may commit contrary to military discipline. It is merely a bill authorising or empowering

the officer commanding these 28 men, to exercise the ordinary duties of the orderly room.

THE HON. J. W. HACKETT: Have you read the South Australian Act?

THE HON. J. G. H. AMHERST: I have not read it. As to any breach against the public Ordinances, these men can be brought up in the ordinary manner. I do not see why these difficulties should be raised.

THE HON. J. W. HACKETT: You will if you read the bill.

THE HON. J. G. H. AMHERST: The hon. member tells me I shall if I read the bill. No doubt I shall do so. It is a matter of the orderly room. You must give the officer who has these 28 men under his command, some power to act.

THE HON. E. HAMERSLEY: I beg to move the adjournment of the debate.

THE HON. J. MORRISON: I beg to second the motion, and I will give my reason. I think this is very much like asking a man to endorse a bill he does not know the amount of. I am sure most of us have not seen the South Australian Act, and we do not know how it may affect us, and the men who are coming over here. Another reason is that this Act seems to me to be establishing a sort of *imperium in imperio*.

Question—That the debate be adjourned—put and passed.

POLICE BILL: ERROR IN.

THE PRESIDENT announced the receipt of the following message from the Legislative Assembly:—

“*Mr. President,*

“The Legislative Assembly requests
“that the Legislative Council will grant
“to it a conference on the subject of their
“Message No. 29, respecting an omission
“in the schedule of the Assembly’s
“amendments to the Police Bill as forwarded to the Legislative Council by
“Message No. 17. Should the conference
“be agreed to by the Legislative Council,
“the Legislative Assembly will be represented thereat by three members.

“JAS. G. LEE STEERE,

“Speaker.”

THE COLONIAL SECRETARY (Hon. G. Shenton): I move that the message be now taken into consideration.

Question—put and passed.

THE COLONIAL SECRETARY (Hon. G. Shenton) moved—

1. That a conference be agreed to, as requested by the Legislative Assembly in its message No. 45.
2. That the time and place for holding the conference be the committee room of the Legislative Council, at a quarter past three o'clock this day.
3. That the President and the Hons. G. W. Leake and J. W. Hackett be the managers to represent the Council at such conference.
4. That a message be forwarded to the Legislative Assembly, acquainting it with the foregoing resolutions.

Question—That the resolutions be agreed to—put and passed.

At a later stage the Hon. G. W. Leake brought up the following report of the managers:—

"The conference reports that, having inspected the 'Votes and Proceedings of the Legislative Assembly' with relation to any proceedings on a bill intituled 'An Act to consolidate and amend the law relating to the Police in Western Australia,' they find that on Thursday, 21st January, when in committee on the said bill, an amendment was proposed and carried in clause 96, to strike out sub-clause 18, which amendment was not included in the Schedule of Amendments forwarded to the Legislative Council in Message No. 17.

"The conference recommends that the Legislative Council give their concurrence to the amendment which was omitted from the Schedule in Message No. 17, viz., to strike out sub-clause 18 in clause 96; and that the clerk of the Parliaments be authorised, by writing under the hands of the President of the Legislative Council and the Speaker of the Legislative Assembly, to make the necessary correction in the bill before presenting it to His Excellency the Administrator for Her Majesty's assent."

THE COLONIAL SECRETARY (Hon. G. Shenton): I move that the report be adopted.

Question—put and passed.

THE COLONIAL SECRETARY (Hon. G. Shenton) moved, "That the Council concurs in the amendment omitted from the schedule of amendments to the Police

Bill, forwarded by the Assembly in its Message No. 17, namely, to strike out sub-clause 18 in clause 96; and desires the President, in writing under his hand, to authorise the Clerk of Parliaments to make the necessary correction in the bill before presenting it to His Excellency the Administrator for Her Majesty's assent."

THE PRESIDENT: Before putting the question I may say that this is the best possible means of getting over the difficulty, and it is all the more satisfactory to me that the solution has taken this form, because this resolution is precisely and absolutely the same in effect as that which I drafted immediately after the mistake had been discovered.

Question—put and passed.

GERALDTON HARBOR IMPROVEMENTS.

The House went into committee to further consider Message No. 36 from the Legislative Assembly.

THE COLONIAL SECRETARY (Hon. G. Shenton): Sir, I moved the adjournment of the debate on Wednesday evening in order that I might obtain certain information in reference to these Harbor Works, more particularly with regard to Sir John Coode's report. That report I have now before me. Sir John Coode estimated the cost of the jetty to be constructed of jarrah or karri at £14,600. I would say in the first instance, that the Government do not intend to build the jetty of karri, because we have had some very bitter experience of building jetties with that timber. The Government have received advices from Carnarvon that if the jetty there goes on being eaten by sea-worms as in the last few years, this House will soon be called upon to construct another jetty there, and the same trouble is likely to occur with the Fremantle jetty. The Government do not wish to perpetuate the mistakes of the past. In addition to the cost, £14,600, Sir John Coode estimated the cost of rails, &c., would be about £2,000, and two warehouses and other proposed works, which it was estimated would make a total of £21,400. The Engineer-in-Chief has estimated the cost of the construction of the jetty at £16,000, his estimate being rather higher than that of Sir John Coode. The balance will be

expended on the completion of buildings in connection with the jetty, receiving sheds and the deviation of the line, making it in direct connection with the jetty, instead of running through the streets as it does now. It is a very important matter that there should be proper buildings at the foot of the jetty for the reception of goods awaiting shipment, and for goods which may come off the steamers. Sir John Coode estimated the cost of constructing these buildings at £3,000. Since then the trade of the colony has very much increased. We have only to look at Fremantle to see that the sheds there provided some years ago are totally inadequate to the requirements of the port. The railway sheds now in course of construction have about four times the accommodation the old ones had, and in all probability they will have to be added to before long, and the same thing will apply to Geraldton. The present site of the railway workshops there will be sold; also such land as is not required. It is expected that the sale of this will pay for any land that may be resumed hereafter for railway purposes. The Government do not intend to spend more than £25,000 upon these works, which will be carried out according to the plans and sections which have been laid before both Houses of Parliament. Should the amount at disposal be insufficient to carry the works to a completion, then the Government will come down to both Houses of Parliament, and ask for such sums as may be required over and above the £25,000 already voted in the Loan Bill. All we ask for now is for the approval of this House for the sum of £25,000, such sum to be expended in carrying out the scheme of Sir John Coode for a jetty and shed accommodation, and to connect that jetty with the present railway system. If afterwards it is found that £25,000 is not sufficient to carry out the whole scheme, the Government will come down, as I have said, to both Houses, and ask for any further money required. The Director of Public Works and the Engineer-in-Chief both went up to Geraldton to inspect the site, and they strongly recommended the adoption of the scheme we now lay before the House. I have also a minute by the Hon. J. A. Wright, when he was Director of Public Works,

that the plan submitted by Sir John Coode is the correct solution of the difficulty.

THE HON. E. T. HOOLEY: May I ask whether it is intended to resume any land?

THE COLONIAL SECRETARY (Hon. G. Shenton): Sir John Coode's original plan proposed to take ground on each side of the bar, but in the plans proposed by the Engineer-in-Chief it is only proposed to take land on the North side. It is not proposed to resume any land on the South side of the jetty. Sir John Coode proposed to reserve lots 228 and 229.

THE HON. T. BURGESS: I think the explanation given to this House by the hon. the Colonial Secretary has at last removed from my mind a great difficulty, which I saw when these plans were first laid on the table. We can now assume that the proposed jetty improvements at Geraldton, which are very much required, will not exceed the amount originally set aside for that purpose. When the plans were submitted to this House it appeared to my mind that a very large amount of money might be paid away for compensation for town allotments which might be resumed. We are assured by the Colonial Secretary that the jetty and the approaches thereto, together with the sheds necessary for the working of that jetty, will be the first works taken in hand. It is the general desire of the Geraldton people to see the jetty constructed for the convenience of the public, and at the same time afford sufficient shipping facilities in that district. The alteration of the line of railway can be settled at a future date. The present railway runs across Durlacher Street, and when this jetty is completed the line running by the side of the jetty will afford sufficient accommodation for present requirements, and if, in the future, it is found that it is wanted to remove the railway from the streets, where it runs at present, I have no doubt that funds will be provided. I take it that the proposed line on the beach is intended to remove the railway out of the principal street; but that is a matter for future consideration. To my mind the explanation now given is quite satisfactory.

THE HON. J. A. WRIGHT: I trust the hon. the Colonial Secretary will allow

me to congratulate him upon the very clear statement he has made. It is a most satisfactory one to this House, and I am much obliged to him for it. I feel sure he will admit that the statement now made is very different from what we understood when the plans were first brought before us. There is now no resumption of land except what was recommended by Sir John Coode; whereas on the plan which was laid on the table there were about 41 blocks, which, it appeared, were to be resumed, the cost of which would have absorbed very nearly the whole of the £25,000. This, we find, arose from an error of one of the draughtsmen, who colored a much larger area than was in the original plan. As far as I understand the hon. the Colonial Secretary, it is intended first to construct the jetty, leaving the alteration of the railway for after-consideration.

THE COLONIAL SECRETARY (Hon. G. Shenton): No doubt it was a pity a mistake should have occurred in the plan. My impression is that I stated distinctly that the first charge would be for the construction of the jetty. Unless my memory fails me, I distinctly stated it was the intention of the Government to carry out the plans as proposed by Sir John Coode. I regret the mistake, and no doubt it misled some hon. members, who thought there was a far larger amount of land about to be resumed than was intended. I am glad hon. members are satisfied with the explanation.

Question—put and passed.

COSSACK HARBOR IMPROVEMENTS.

The House went into committee to further consider Message No. 36 of the Legislative Assembly, relating to the proposed improvements to the Cossack Harbor.

THE COLONIAL SECRETARY (Hon. G. Shenton): I would like to draw the attention of hon. members to the plans that have been laid upon the table in reference to this work. If hon. members will look at them they will see that they show exactly what the Government intend to do with the £7,000 voted. The first is the building of a sea wall, the next the filling up from the wall to the line of tramway; thirdly, the con-

struction of a goods shed 70 feet by 30 feet; fourthly, the deviation of the present tramway line so as to bring it direct from Roebourne to the new wharf proposed to be built. The plan shows all the works proposed to be done. The second plan shows the cuttings and embankments that will have to be made, and the gradients to bring the tramway from its present position to the wharf. The third plan shows the wharf, the buildings, and the tramway as they will be when completed, and how it is proposed to extend the wharf at any future time when required. The estimates for this work were made by Mr. Martin, who has the reputation of being an able Engineer, both in marine and railway matters. He met the residents of Cossack and Roebourne, and agreed with them that this was the best way in which the money could be spent. The plans were worked out, and it was found that the work would cost rather more than the Government thought it would; but, looking at the importance of Cossack as being the port of the Nicol Bay District, the Government thought they were justified in coming to both Houses and asking for an expenditure of £7,000. Mr. Martin thinks the work can be carried out at that figure. I ask that this House will approve this resolution, that the Government be empowered to expend a sum not exceeding £7,000 on harbor improvements at the port of Cossack.

THE HON. G. W. LEAKE: Has the opinion of shipmasters been taken on this scheme?

THE COLONIAL SECRETARY (Hon. G. Shenton): The opinions of shipmasters differ very much. I think the opinion of Mr. Martin, backed up by old residents, is of more value. I would rather consider the opinion of a man who has lived on the spot 25 years than that of a captain who had made one or two trips to the port.

THE HON. J. A. WRIGHT: I consider the information we have now received from the Colonial Secretary is in every way highly satisfactory. I moved the adjournment of the debate the other evening because I asked some questions which were not answered. Now I cannot ask for a more explicit or clear statement.

THE HON. T. BURGESS: The Hon. Mr. Leake asked if masters of ships had been consulted as to the position of the pro-

posed harbor works at Cossack. The only objection shipmasters have made to the proposed plan is that it is too far up the Creek. There is a small island, or something of the sort, just opposite the proposed jetty, and their opinion is that if the works were placed a little farther down, more to the east instead of the west, it would give some of the larger steamers a better opportunity of coming up to the jetty. In my opinion I think it would be desirable if it could be placed about fifty yards further down the Creek. It would then induce steamers of a larger size than those which generally visit Cossack, to approach the jetty. I think the Government have some idea that such an alteration might be made, and they might further consider it without altering the plans.

THE HON. E. T. HOOLEY: Respecting the position of these works, it does not matter much to shipmasters where the jetty is placed, as only very small steamers, such as the *Rob Roy*, go alongside. The trade there is worked by lighters principally.

Question—put and passed.

GAME BILL.

The House went into committee to consider message No. 38 of the Legislative Assembly.

THE COLONIAL SECRETARY (Hon. G. Shenton): I will not take up the time of the House. I simply move that this House does not insist upon its amendment to the Game Bill. I may point out to hon. members that if the Council still insists upon its amendment the bill will fall through, and we shall still have this obnoxious power, which has been so much complained about, in existence. These very provisions are in the old Act, which will still be in force, but we shall lose all the good provisions that we have made in the bill now before us. Under these circumstances, I would ask hon. members if it is not better to abandon the amendment that we have made in the bill which the Assembly will not assent to, and pass it as it now stands. If it is found that this clause works harshly, it will be easy for hon. members to get the Government, or move themselves, to repeal it. All I ask now is that the bill may have a fair chance. Hon. members

will all recognise that there are some very important clauses in it, and the question we have to consider is, whether we shall abandon this bill, and work under the old one, or give way on our amendment.

THE HON. J. W. HACKETT: I think this bill is very properly called a Game Bill, for certainly we have had as much amusement and entertainment out of it as we usually obtain from any game whatever. I must first congratulate the hon. the Colonial Secretary upon having at last made up his mind to ask this House to come to a decision. I remember, when this question first came before the House, nothing could exceed the excitement of the hon. the Colonial Secretary; nothing could equal the way in which he wanted to go on with the discussion of it. I have also to congratulate my hon. friend sitting on the right of the Colonial Secretary (Hon. E. Hamersley) for having made it possible for us to proceed to a decision on this matter. I know that his absence is usually a source of regret, but on this occasion it amounted almost to a public and political disaster, for it absolutely stayed the settlement of this question. It will be remembered that this unfortunate amendment has been treated as a sort of battledore and shuttlecock, in accordance with the name of the bill. It has been backwards and forwards, and it now comes to us backed by the pleading of the hon. the Colonial Secretary, seconded by my hon. friend Mr. Amherst, and supported by the promises of other hon. members. I should be the last person in the world to invite this House to put itself in a false position, and I should also be the last person in the world to ask this House to take a course which may in the smallest degree be repugnant to persons in another place or to the Government; but the question is whether, having considered the matter fully, and having come to three distinct determinations upon it, there has been good reason shown to this House why it should stultify itself at the last moment, and forego an amendment which it believes embodies the principle of popular liberty, without in the least degree interfering with the efficacy of the bill. It will be remembered that the principal objection we took to this par-

ticular clause as it stood in the bill, was that it made it lawful for any person who saw another offending against the provisions of this Act, to seize and carry him away and lodge him in gaol, and if the unfortunate gentleman offered any resistance, he might be fined £10. I pointed out that this power did not exist in England, for there the power is only allowed to three persons—the police, of course, the owner or occupier of the land, or those entitled to shoot over it. We desired to introduce the provisions of the English legislation in the Act before us. I would ask hon. members whether the smallest reason has been alleged why we should go back upon our thrice repeated decision? To my mind only one answer can be given. We are informed that if we do not give way we shall have to revert to the old bill. That seems to me a paltry argument. With the very limited infringement of public liberty granted by the present Act I have no reason to complain, for the power of general arrest is contained only in one clause, and does not refer to all the matters set forth in this bill, but only to one class of offence—that of the destruction of game during the close season, and of the taking or destroying of the eggs. If any hon. member will examine the bill he will find that not only is this general power of arrest given, but that other clauses have been added to this Star Chamber bill, without the slightest explanation or attempted justification on the part of the Colonial Secretary, or anyone else. Under the old Act a person could be arrested who was destroying game in the close season, but there are other cases in which this power is granted in this bill. We were informed at the Conference that the subject matter of this bill, its provisions and penalties, were really taken from the Acts of the other colonies, and which was also in the present Act. It turns out that no power of arrest is given in the present Act, except as I have stated—in the case of destroying game in the close season. Nothing is said in that Act about reserves or the preservation of indigenous animals. I have looked into the subject and examined all the Acts of the other colonies which I could secure—those of New South Wales, Queensland, Victoria, and Tasmania, and I find that in no case

have they ventured to deal with the liberties of the subject as this bill proposes to do. The Act of New South Wales solely deals with the close season in giving this miscellaneous power of arrest. The Queensland Act upon which this bill was founded more than any other, as we were informed by the Colonial Secretary, only deals with imported game. Nothing whatever is said about indigenous game, or the game of the country. It simply deals with imported animals which are private property. In the Victorian Act, which was also cited, there is no reference whatever to indigenous game or to reserves and this power of arrest is simply given in the close season. The Tasmanian Act only deals with the close season, and here again no general power of arrest is given whatever. The powers given in Tasmania and New South Wales are the same. So much for the laws of the other colonies. I would ask the committee to consider very carefully whether they will go so far as to extend the power of arrest—the power of making every man a policeman—so much further than is known to the other colonies. I would draw the attention of this House to another point: we are asked, in assenting to this clause, to assent to something which is positively unintelligible. If hon. members carefully read the clause, they will see the wording is so confused as to be really unintelligible. The clause reads as follows: “If “any person shall be found offending “against the provisions of this Act, and “shall not give his name and address, “and shall not deliver up any imported “bird or animal or native game, or any “instrument or means used to kill, “destroy, take, or disturb such bird or “animal or such game, to any person “who, being the owner of such imported “bird or animal or native game, or his “authorised agent, may demand the “same respectively, it shall be lawful for “such person, with any assistance he “may require, or for any police constable, “to take and detain such person in “custody until he can be brought before “a Justice of the Peace, to be dealt with “according to law. And any person “who shall assault or resist any such “person so demanding such bird, animal, “or game, or instrument or means as

"aforesaid, shall on conviction forfeit and pay a penalty not exceeding Ten pounds, besides any other penalty he may have incurred under this Act, and shall forfeit such game, instrument, or thing." Who is "said person," the person from whom the game is demanded or the person who demands it? Then again it says, "may take and detain such person." Who is "such person"? It will be necessary if we do not lay ourselves open to ridicule that we should add one or two words to make it clear as to who is alluded to. I hope hon. members will take the bill in hand and see that it is made to read intelligibly, for as it is at present it is liable to two or three interpretations. I venture to say that no conviction could be got under this clause, because if in dealing with criminal matters the law is not perfectly explicit the party accused will get the benefit of the doubt if there be any. I have pointed out that we have decided this question three times, and the Colonial Secretary has given no reason whatever why we should reverse that thrice repeated decision. I have pointed out that there is no real damage done if the bill is withdrawn. I have pointed out that this bill not only goes beyond the law of England, but also far beyond that of the other Colonies, and I further pointed out that if we accept this clause as it stands, it is simply unintelligible, and whenever it is attempted to be put in force it will lead the magistrates into serious difficulties, and lead to the ridicule of both this and the Lower House.

THE COLONIAL SECRETARY (Hon. G. Shenton): The hon. member omitted to point out that in England most of the game is owned by the land owner, and that gamekeepers are kept for the protection of game. Here there are no gamekeepers for the protection of game and therefore we need greater powers. I would point out to hon. members that in this bill we have made arrangements for certain reserves upon which no shooting whatever will be allowed. For instance we propose to reserve the whole of Perth Water. I would ask how this could be worked unless special power were given. We know very well that in some parts, under our present Act, shooting goes on in the close season almost as much as in the open

season, and so it would be in these reserves unless strict regulations were made. This is why the Government ask for special power. As to the wording of the clause, I cannot pretend to have the legal knowledge of the Hon. Mr. Hackett. All the Government can do is to depend upon their Attorney General.

THE HON. G. W. LEAKE: I think even if the bill should pass, and there should be any great evil arise between this session and next, we can easily alter it. There are some beneficial enactments in it, and, therefore, I shall give my vote with the hon. the Colonial Secretary: although I must say my heart is with the Hon. Mr. Hackett as regards this clause. I shall do so as a matter of compromise, because I do not think all the other beneficial enactments should be allowed to fall through on account of one which we do not agree with. At all events I shall not sacrifice a positive good for a prospective evil. As to all this rubbish—well, I will not call it rubbish, but all these illusions to the liberty of the subject—it is all nonsense. Still I do not agree with the clause, but I shall vote for it on account of the other beneficial provisions of the bill.

THE HON. J. A. WRIGHT: It is difficult to understand from the remarks of the hon. member whether he is going to vote on this side, or leave the House minus a heart. I shall vote with the Hon. Mr. Hackett, because this clause simply offers a premium for blackmailing. No end of difficulty will arise, for I understand that Perth Water is to be a reserve, while Melville Water will not be. A bird may be shot just over the boundary, and when it is carried ashore it is open to some larrikin to arrest. If the indignation of the person arrested by any chance got the better of him, and he knocked his assailant down, he would have to pay £10 for doing it. The Colonial Secretary says the reason why this bill should pass is that this clause is already in the Game Act of the colony; but admitting that to be so, what we want to do is to amend what is wrong in the existing law. I hope, therefore, the House will stand by what on three previous occasions it has agreed to.

THE HON. T. BURGESS: I regret being obliged to place myself in opposition to the Government. We came to a conclu-

sion before for reasons which have been fully explained by Mr. Hackett, and having come to that decision I do not see how we are now to take another course. The hon. the Colonial Secretary (and I think it is a mistake on his part) said that if this bill were not accepted as it stands, no other bill will be brought in. I think it a mistake of an hon. member representing the Government to make a statement, which in effect means that they will not accept any amendment. We are here as a part of a Parliament of this colony, and I think it is our duty when we see any error to point it out. The Attorney General, if reported correctly, has said—

THE PRESIDENT: The hon. member must not refer to what has taken place in the other House.

THE HON. T. BURGESS: I think it has been said by someone that this condition is already in force in the present Act. Now, sir, if an error exists in an Act, that is no reason whatever that the mistake is to be perpetuated. If an opportunity occurs, it is our duty to amend the error, and I think it would be a very great infringement of the liberty of the subject if we passed this clause as now proposed in the bill. We should be doing wrong to pass the bill in its present shape, more especially having previously arrived at the decisions we have, and we should not now in any way stultify ourselves and pass it. I am sorry to act in opposition to the Government and the Attorney General who has had charge of this Bill, but I think I should be wanting in duty if I voted for it as it stands.

THE HON. J. G. H. AMHERST: I move that the question be now put.

THE HON. J. W. HACKETT: Will the hon. member say why he wishes to gag the House?

THE HON. E. T. HOOLEY: Whatever may be the fate of this bill I think the thanks of this House are due to the Hon. Mr. Hackett for the very clear statement he has made, and the way he has explained the bill to us. I must say that I understand the subject better than I did. I have, however, come to the conclusion that it is quite time the matter was settled, and it is my intention to vote for the bill as it stands rather than lose many beneficial provisions for the

sake of throwing out one we do not approve of.

THE HON. J. G. H. AMHERST: I merely wish to explain that I have no wish to gag the House; I thought that the matter had been sufficiently debated.

Question—put.

Committee divided.

AYES—7.
 The Hon. J. G. H. Amherst
 The Hon. D. K. Congdon
 The Hon. G. Glyde
 The Hon. E. Hamersley
 The Hon. R. W. Hardey
 The Hon. E. T. Hooley
 The Hon. G. Shenton
 (Teller).

NOES—5.
 The Hon. T. Burgess
 The Hon. R. E. Bush
 The Hon. J. Morrison
 The Hon. J. A. Wright
 The Hon. J. W. Hackett
 (Teller).

Majority of 2 for the Ayes.

Amendment not insisted on. Resolution reported.

THE HON. J. W. HACKETT: I really trust, if only to save this House from ridicule, that the wording of this Bill will be somewhat altered, so as to make it intelligible what the indiscriminate use of the word "person" means. I suggest the addition of two words only which would make the clause read intelligibly.

THE COLONIAL SECRETARY (Hon. G. Shenton): The hon. member can move at the next sitting of the House for leave to add to this message. I move that the debate be adjourned.

Question—put and passed.

ADJOURNMENT.

The Council at 4:50 o'clock p.m. adjourned until Monday, 14th March, at 8 o'clock p.m.