

conditions with the laboring men who are our brothers and our kindred.

Motion put and passed.

Bill read a second time.

#### ADJOURNMENT.

The House adjourned at 8:30 p.m.

### Legislative Council,

Friday, 8th January, 1892.

Police Bill: third reading—Boyanup-Busselton Railway Bill: third reading—Sharks Bay Pearl Shell Fishery Bill: in committee—Game Bill: in committee—First Offenders Bill: second reading—Adjournment.

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

#### PRAYERS.

#### POLICE BILL.

This bill was read a third time, and passed.

#### BOYANUP-BUSSELTON RAILWAY BILL.

This bill was read a third time, and passed.

#### SHARKS BAY PEARL SHELL FISHERY BILL.

On the motion that the House resolve itself into a committee of the whole to consider this bill,—

THE HON. G. W. LEAKE moved that the bill be referred to a select committee. He said: I may point out to the House how short a time has been given to consider this bill, proposing as it does, in a most drastic and virtually irrevocable manner, to deal with that most important asset of this colony—the product of that arm of the sea which gives us a pearl

which, for texture, clearness and lustre, is equal to that obtained on the coast of Persia and elsewhere. If we refer to the 6th section of this Act we find that it enables the Government to grant licenses to work the banks for a year, and also to grant exclusive licenses to persons for terms not exceeding 21 years. To my mind this enables the granting of a monopoly of one of the most important assets of the colony for a long term, and these licenses are grantable by any Ministry which may happen to be in power. I know the members of this Ministry, and I am sure that they would not do any dishonest act, but we must bear in mind that this Ministry will be succeeded by another, and this Act will provide a most important counter in the hands of a Ministry to gamble with—a counter they may use by giving these exclusive rights for the purpose of gaining votes. I do not say it would be done; but I have heard of such things being done in the neighboring colonies. Still it gives a Ministry an opportunity of conferring a monopoly on certain individuals in connection with an important item of commerce. I do not move that this bill be referred to a select committee in any spirit of hostility to the Ministry. I wish rather to help them, and I am sure that is only the wish of every member of this House. I have some reason to believe (and it only requires a very cursory perusal to show it) that this bill was not drawn by a lawyer. It has been drawn somewhat upon the lines of the Land Regulations, and it allows any Government, whatever may be its political aims, to grant for a period of 21 years the exclusive monopoly of the pearls at Sharks Bay.

THE HON. J. G. H. AMHERST: A portion only.

THE HON. G. W. LEAKE: Well, say a portion, and that may be 99-100ths. Again, there is nothing in the bill to prevent the lessee from destroying the grounds. You may place what restrictions you like upon him, but it will only be when the oysters are swept away that the remedy will become enforceable. There are a number of other matters which require careful consideration, and therefore I ask that the bill be referred to a select committee, a committee upon which I should be glad to see the hon. the Colonial Secretary. I propose this

course, not with any view to opposing the wishes of the Government, but in order to help them in doing that which is best in the interests of this colony.

THE HON. M. GRANT: I am quite in accord with the hon. member, and I beg to second his motion. The pearl shell industry has, no doubt, by the number of boats that have been engaged in the fishery for some years past, been overdone, and therefore something is necessary to be done in the matter. At the same time I can see that under this bill it is quite possible that a monopoly may be obtained by the individuals who may tender for these licenses, to the detriment of others. And we may rest assured that when they get it they will take all the shells possible, and leave the banks in a worse state than they are now. To my mind, it should rest with the Government to preserve the fishery, and not leave it to others to do. We know that if a person lets a farm the lessee always takes as much out of it as possible at the end of the term, and it will be the same with these banks. Improvements are constantly being made in the appliances for gathering shells, and it is possible that the banks will be denuded of all the oysters by the time the leases expire. And, again, I think some consideration should be given to those fishers who are already there. They have some vested rights; they have their boats, and their all is invested in this business, and I should not like to see them cut out altogether. At the same time I should be quite willing to grant leases of certain small portions to individuals for the purpose of making experiments—to individuals who wish to try to produce the edible oyster, for instance, as has been done in France and England; but to give the whole thing over to a company will simply mean that they will take everything they can out of the banks. In my opinion these waters should be under the supervision of the Government, who should let them from year to year, so that they could close any particular portions of them when it is deemed advisable; and I might also point out that there is no provision whatever in the bill as to how these exclusive licenses are to be worked. I am opposed, therefore, to the bill as it stands, and I shall vote with the hon. member that it be referred to a select committee.

THE HON. G. W. LEAKE: I do not propose to oppose the bill, but simply to have it referred to a select committee.

THE COLONIAL SECRETARY (Hon. G. Shenton): The last speaker has evidently not read the fifth clause of the bill, or he would not have made the statement he did when he said that there was no provision as to how these exclusive licenses were to be worked. The bill provides that the licenses are to be worked under the regulations. As far as the select committee is concerned, I do not see what end is to be gained by it. Any objection to any of the clauses can be as well dealt with by the committee of the whole as by a select committee, and I must, therefore, oppose the hon. member's proposition. I stated last night that the reason the Government wished to have this power was to encourage the holders of these licenses to carefully conserve the grounds and induce them to see that the banks were not worked out. I take it that the Government before granting any exclusive licenses for 21 years will make such regulations as will prevent the catastrophe happening to the banks which has been indicated, and would ensure that at the termination of the lease the ground was not handed back in a denuded condition. I also said that it was the intention of the Government to appoint an inspector, and before any lease is granted the Government will have received his report as to the advisability or otherwise of granting any lease applied for. I also stated that it was the intention of the Government to ask for a vote so that we could obtain the services of Mr. Saville-Kent for two years, so that we might get a report from him on these fisheries. Surely, too, hon. members will not think that the Government are likely to grant a monopoly to individuals which will entirely close the banks to the general public; nor are they likely to do the injustice to anyone which was referred to by the Hon. Mr. Grant. At the present time the leases at Sharks Bay have all expired, and the Government do not intend to renew any of them until this enactment is passed. Under the old Act we had no power to reserve such portions of the ground as we might be advised by the inspector it is necessary to close; but this bill gives us that power. Hon. members, I think,

may safely trust the Government to do what is best in the interests of the colony, and I hope they will pass this bill, which is urgently needed, as early as possible.

**THE HON. J. MORRISON:** I give the Government credit for the best intentions with regard to this measure; but I do object to the granting of exclusive licenses for 21 years. Once a gentleman under the old regulations went to the Crown Lands Office, paid 2s. 6d., and every acre of land in the colony was tied up for a month. Now we want to do away with all chances of anything like that happening with regard to these banks. There is no limit to the area that may be leased, and I take it that one person might get the whole of Sharks Bay. At all events it would be possible for one person to get it.

**THE HON. M. GRANT:** It will be so too.

**THE HON. J. MORRISON:** Yes, and then the Government will be left in a position they do not anticipate now. Therefore I think the Government might allow the debate to be adjourned so that they may look into the matter, for I can clearly see that they may be placed in an awkward position, without their intention, as was the Government in the case I have referred to under the Land Regulations. There is no minimum or maximum area that can be leased under the Bill, and if one person applied for a license to the whole of Sharks Bay he might place the Government in an awkward position.

**THE HON. J. G. H. AMHERST:** When I read this Bill through I was struck with that which has struck other hon. members—the danger which was likely to arise through the granting of licenses for 21 years. I thought the term was rather long; but having talked the matter over with men who know this district and its capabilities, I have come to the conclusion that it would be better to grant to responsible people a lease for a long period. It would be a good thing for them and a good thing for the colony. The lessees would look upon the ground as their own property, and they would do the best they could to develop it, and I do not think any harm can come to the colony if the lease is subject to the Act and to the conditions which the Government think it necessary to impose. As

I have said I was at first inclined to think the term too long, but I have changed my opinion. I fail to see why a committee of the whole House cannot settle this matter just as well as a select committee, and therefore I shall not support the amendment of the Hon. Mr. Leake.

**THE HON. T. BURGESS:** I think the provisions of this bill are quite sufficient to protect every interest. The working of this fishery is to be guided by regulations under this Act, and I have that much confidence in the Government to believe that they will frame such rules as will effectively deal with both classes of licenses that may be granted. There are two kinds of licenses provided for, one of them an exclusive license granted for a term not exceeding 21 years, which will be given when the object is to encourage persons who desire to cultivate the oyster, and it is certain that no one would undertake anything of the kind without a lease for a considerable period. Those who desire to work other portions of the fishery in a different way can do so under what is called the general license. I cannot, therefore, see the necessity of any select committee being appointed.

**THE HON. J. W. HACKETT:** I agree with my hon. friend who has just sat down that there seems no necessity why a committee of this House is not competent to consider this bill. A select committee might obtain a little further information, but delay would ensue, and it is important that some steps should be taken with regard to this fishery, which at this moment is at the point of extinction, at the earliest possible opportunity. At the present time it is most difficult to obtain even a bag of shell where hitherto it was possible to obtain a ton. At the same time I should like further time to consider some of the clauses of this bill. It does seem to me to be a serious step to take, to give a Government power (not this Government necessarily, which I am sure would use the powers entrusted to them with great wisdom) to close the whole of Sharks Bay by, perhaps, locking it up in the hands of one or two men for 21 years—which is close upon half a lifetime. We must also remember that the gist of the Act lies in the regulations, and at present we have no idea as to

what these are likely to be. We certainly have the assurance of the hon. the Colonial Secretary that the Government will be guided by so competent an authority as Mr. Saville-Kent, and no doubt no irretrievable step will be taken before he arrives; but the question is whether some limit should not be placed both as to the time and the area. It has been thrown out that the object of the Government is not to lease the whole of the Bay, but to lease it in parts, but it would be as well, I think, if that were provided by the bill. On the whole I am glad that the Government has brought in this bill, and I shall certainly be in favor of passing it in some form. We might go on with it, I think, now, and then, after passing the first four clauses, which are only formal ones, report progress in order that the subject may be again considered after a short adjournment.

Amendment—put and negatived.

#### IN COMMITTEE.

Clauses 1 to 4 were agreed to without amendment.

Clause 5:

**THE HON. J. W. HACKETT:** I now move that progress be reported and leave asked to sit again on Tuesday next.

Question—put and passed.

#### GAME BILL.

#### IN COMMITTEE.

**THE HON. J. W. HACKETT:** I think on the second reading of this Bill the hon. the Colonial Secretary promised to afford us some further information as to why no provision dealing with fishing appears in the Bill.

**THE COLONIAL SECRETARY (Hon. G. Shenton):** It was found impossible to put anything in the bill about nets.

**THE PRESIDENT:** This discussion is altogether irregular.

Clause 1—put and passed.

Clause 2—Interpretation:

**THE HON. J. W. HACKETT:** I now invite the attention of the Colonial Secretary to the fact that only birds and animals are mentioned, and that there is nothing about fish.

**THE COLONIAL SECRETARY (Hon. G. Shenton):** It was at first intended to include fish, but it was found to be impracticable.

The clause was agreed to, and clauses 3 to 6 passed without amendment.

On Clause 7, which read as follows:—  
“If any person, not being the owner, or without the permission of the owner, shall wilfully take out of the nest or destroy in the nest the eggs of any bird of imported game or of any bird of native game, or shall knowingly have, or permit, or suffer to be in his house or possession any eggs of any such birds, every such person shall on conviction forfeit and pay a penalty not exceeding the sum of Ten shillings for each egg so destroyed or found in his house or possession”:

**THE HON. T. BURGESS** moved to strike out the words, “or shall knowingly have, or permit, or suffer to be in his house or possession, any eggs of any such birds” in the 6th, 7th and 8th lines, and the words “house or” in the 12th line.

**THE COLONIAL SECRETARY (Hon. G. Shenton):** I think we should be careful before we alter the bill. Perhaps some amendment is necessary, but if we strike these words out it may be found difficult to follow up a case of suspicion. I can of course see what the hon. member's objection is. Some of the settlers already have eggs in their possession in the shape of ornaments and other things, and as this clause reads they would be liable; but I think this difficulty may be got over by providing that it shall not have a retrospective effect. If hon. members will allow the clause to pass as it stands, I will, on the part of the Government, undertake to recommit the bill, and in the meantime ascertain what can be done to meet the views of the hon. member.

**THE HON. G. W. LEAKE:** I fail to see the cogency of the Colonial Secretary's arguments. Why should we pass the clause now?

**THE COLONIAL SECRETARY (Hon. G. Shenton):** Pass it *pro forma* only.

**THE PRESIDENT:** The only other way of getting over the difficulty is to report progress. Once an amendment is proposed to a clause it cannot be postponed.

**THE HON. G. W. LEAKE:** I think it would be better to postpone the discussion. Just let me call attention to the clause. It says: “If any person not being the owner, or without the permission of the owner.” What is the meaning of the word “owner.” In England

has the partridge or the pheasant an owner? I think we had better report progress so as to enable us to consider the clause, for if we pass it as it stands it will only throw an inducement in the way of the pettifogger to prosecute or defend cases, and thus throw upon the magistrate the responsibility of deciding what is the meaning of the word "owner." As the clause appears in this Bill it is perfectly unintelligible, and I shall, therefore, move that progress be reported.

**THE HON. M. GRANT:** I am quite in accord with my hon. friend who has just sat down. I do not think as a whole that this bill is sufficient for the purpose for which it is intended. There are many things I object to in it, one of them being that in my opinion the penalty for killing certain birds is not large enough by any means. I shall, therefore, support my hon. friend so that we may have more time to consider it.

**THE HON. J. W. HACKETT:** There can be no doubt that the Hon. Mr. Leake and the Hon. Mr. Burges have both pointed out certain difficulties which may arise under more than one section; but I may state that the course proposed to be taken by the hon. the Colonial Secretary is the ordinary one under the circumstances. The whole bill is not objected to, and to my mind it is wanting in courtesy to the representative of the Government in this House, after he has given the assurance he has, not to accede to his request. And one of the advantages of adopting the course he suggests is that any alterations proposed must be reduced to writing. They will then be placed on the Order Paper, and hence can be the better considered than any alterations hon. members may propose verbally. Clause 8 will also have to be altered and other amendments will have to be made; but we can pass the bill now, and then go back to those clauses which require to be changed.

**THE COLONIAL SECRETARY (Hon. G. Shenton):** One of the reasons why we should adopt the course I suggest is that which has been stated by the Hon. Mr. Hackett. It will ensure any amendments proposed being put on the Notice Paper. I have given an assurance on the part of the Government that the bill will be recommitting, and I think hon. members might accept it.

**THE HON. G. W. LEAKE:** I have up to the present heard no argument against the course I have suggested. I ask, what is the meaning of the word "owner," and to what game does it refer—imported or native game? I do not propose to throw the bill out, or to make it unworkable. I wish to make it workable, and I therefore suggest that progress be reported, and in the meantime we may be able to give the bill something like a reasonable aspect. It is simply ludicrous as it is.

**THE PRESIDENT:** Precisely what the hon. member desires can be effected by the course the hon. the Colonial Secretary proposes, and in the meantime the hon. member can give notice of any amendments he wishes to.

**THE HON. G. W. LEAKE:** Matters of this importance cannot be decided at a moment's notice.

**THE PRESIDENT:** The report need not be taken until Tuesday next. If the hon. member wishes to give effect to the hon. the Colonial Secretary's suggestion it will be necessary for him to withdraw his amendment for the present.

**THE HON. T. BURGESS:** Then I withdraw it for the present.

The clause was then agreed to.

Clause 9—"Persons offending against this Act to give name and address and deliver up game, &c., otherwise may be apprehended":

**THE HON. R. W. HARDEY:** I do not think the penalty of £5 in this clause is sufficient. I therefore move to strike out "Five pounds" and insert "Ten pounds" in lieu thereof.

Amendment—put and passed, and the clause as amended agreed to.

The remaining clauses of the bill were agreed to without amendment.

First Schedule—passed.

Second Schedule—Native Game:

**THE HON. J. G. H. AMHERST** moved to insert the words "wallaby" and "tamar."

**THE HON. R. W. HARDEY** said he would certainly object to the inclusion of the wallaby by reason of its being a most destructive animal. All the gardeners complained of the havoc caused by this destructive animal. At the same time he had no objection to the tamar.

**THE HON. T. BURGESS** suggested that after the word "bustard" the words

"or wild turkey" should be inserted. Very few persons knew what a bustard was.

THE HON. J. G. H. AMHERST said he would not press for the inclusion of the wallaby.

Both amendments were then agreed to.

THE HON. J. MORRISON said he had never heard of a sea-pie before.

THE COLONIAL SECRETARY (Hon. G. Shenton) said it was one of the birds which produced guano.

THE HON. M. GRANT said he did not think the kangaroo should be allowed to find a place in the schedule—at any rate in the districts north of the Murchison. It did not speak very well, he thought, of a country which looked upon the kangaroo as a profitable animal. Their skins might be worth 3s. or 4s., but otherwise they were worthless. In the North they were becoming so numerous that the squatters would shortly have to spend money to exterminate them, and now it was proposed to protect them.

THE COLONIAL SECRETARY (Hon. G. Shenton): If in any district it was found that the kangaroos were a nuisance, it would be very easy to exclude them from the operation of the Act.

THE HON. T. BURGESS said he also had an objection to protect the kangaroo. They had the experience of New South Wales before them, where they had become perfectly intolerable. The kangaroo might not interfere with the prosperity of this portion of the colony, which was, perhaps, unsuitable for pastoral purposes, but at the North they were a great pest. In the Victoria district they had become a great nuisance, even within the fenced paddocks, and steps would have to be taken at once to destroy them. If a proclamation were made he hoped it would not extend beyond the Hill River.

THE PRESIDENT said that the hon. member could attain the end he had in view by moving to withdraw certain districts from the operation of the Act.

THE HON. J. W. HACKETT said he did not intend to defend the kangaroo, although, at the same time, it had become a large source of revenue to the people of the colony. In the North district, while the skin was perhaps not so valuable, in the South district it brought 2s. or 2s. 6d. per lb., and at that price any number of skins could be sold. He would point out

that there were two clauses in the bill which provided safeguards for what the hon. member suggested. The first was the 4th clause, which allowed the Governor to declare a reserve, or to limit it, and it would be open to anyone to go to the Ministry and ask that certain portions of the country should be dealt with or not, according to the circumstances existing, and under the 13th clause these schedules were made of nominal authority only, and the Government could under them act as they thought fit.

THE HON. M. GRANT said he did not see any provision by which aborigines could take game. He thought they should be allowed to take whatever they thought fit.

THE COLONIAL SECRETARY (Hon. G. Shenton) said that if such a provision were not carefully guarded it would lead to the Act becoming a dead letter, for persons would get the natives to kill the game and not be liable themselves to the Act.

THE HON. M. GRANT: They might be allowed to take them for food only.

The schedule was then agreed to, and the Bill reported.

#### FIRST OFFENDERS BILL.

##### SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Shenton): I now move, sir, the second reading of this bill, which is a measure intended to meet a want which has long been felt in our present law. The bill gives power to Courts to deal with first offenders in two ways. They may either not convict, and make an order that the accused shall pay damages not exceeding the sum of £20 for the injury done, or may convict and discharge a first offender on his entering into recognizances to appear and receive judgment when called upon. The principal portions of the bill are to be found in sub-sections 1 and 2 of clause 1. They are:—

- "(1.) The Court, without proceeding
- "to conviction, may dismiss the
- "information or complaint, and
- "make an order to that effect,
- "and if the Court think fit may,
- "upon such dismissal, also order
- "the person charged to pay to
- "the prosecutor such damages

"not exceeding Twenty pounds,  
 "and such costs of the prose-  
 "cution, or either of them, as the  
 "Court may think reasonable;  
 "or

"(2.) The Court may convict the  
 "offender and discharge him  
 "conditionally on his entering  
 "into a recognizance with or  
 "without sureties, and during  
 "such period as the Court may  
 "direct, to appear and receive  
 "judgment when called upon,  
 "and, in the meantime, to keep  
 "the peace and be of good  
 "behaviour, and either without  
 "payment of damages and costs  
 "as aforesaid, or subject to the  
 "payment of such damages and  
 "costs, or either of them, as the  
 "Court may think reasonable."

Hon. members will agree, I think, that these are useful powers to give to the Courts. We know that in some cases young boys are brought up charged with some offence which they have been led into committing by the influence of bad companions, and at present the Court has no power to deal with them. I formally move the second reading of the bill.

Question—put and passed.

#### ADJOURNMENT.

The Council, at 4:30 p.m., adjourned until Tuesday, January 12th, at 3 o'clock.

## Legislative Assembly,

Friday, 8th January, 1892.

Importation of Chinese per "Australind"—Completion of Finnerty Street, Fremantle—Municipal Institutions Act, 1876, Amendment Bill: further considered in committee—Third Judge of the Supreme Court Bill: in committee—Goldfields Act, 1886, Amendment Bill—Supreme Court Act Amendment Bill: first reading—Affirmation Bill: first reading—Return of Moneys paid to Sir John Coode re Fremantle Harbor Works—Adjournment.

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

#### PRAYERS.

#### IMPORTATION OF CHINESE PER "AUSTRALIND."

MR. QUINLAN: I beg to ask the Premier the question standing in my name,—what number of Chinese were shipped on the s.s. "Australind" on her last trip to Western Australia under the Imported Labor Registry Act, and the number consigned to the specified ports or towns in the colony from that shipment, with their destinations?

THE PREMIER (Hon. Sir J. Forrest): The number of Chinese shipped by the "Australind" was 17. Of this number, 2 were for the Blackwood, 6 for York, 1 for Fremantle, 3 for Albany, 2 for Sharks Bay, and 3 for Ashburton.

#### COMPLETION BY GOVERNMENT OF FINNERTY STREET, FREMANTLE.

MR. PEARSE, in accordance with notice, asked the Premier, Whether it was his intention to carry out an agreement made by the late Government and the Fremantle Municipal Council, whereby certain lands were transferred to the Government on the condition that they completed Finnerty Street.

THE PREMIER (Hon. Sir J. Forrest) said the present Government hoped to fulfil the promise of the late Government, and would do so as soon as possible.

#### MUNICIPAL INSTITUTIONS ACT, 1876, AMENDMENT BILL.

This bill was further considered in committee.

Clause 3—"Property exempt from rates": (*Vide* p. 181 *ante* for amendments moved by the Attorney General.)