

that I asked the hon. member to move for leave of absence; but whether it be for a month or not is a matter of no importance, because, if necessary, the leave can be extended.

Motion, as amended by the substitution of the words, "until 5th January, 1892," in lieu of "for one month," agreed to.

#### CHAIRMAN OF COMMITTEES.

**THE COLONIAL SECRETARY** (Hon. G. Shenton) moved, That during the present Session of the Council the President (the Honorable Sir T. Cockburn-Campbell) do perform the duties of Chairman of Committees.

Question—put and passed.

#### POLICE BILL.

**THE COLONIAL SECRETARY** (Hon. G. Shenton) moved, That the House resolve itself into a committee of the whole to consider this Bill.

**THE HON. G. W. LEAKE:** I think this is the proper time to suggest that the Bill be referred to a select committee. I propose this course, not for the purpose of embarrassing the Government, but in order that that due attention may be given to the bill which devolves upon us. I have had a long experience of these Police Acts; in fact I drew the bill from which this one, as far as I can gather from a cursory perusal of it, has been taken, and I think we should send it down to the Lower House in as perfect a state as our experience will permit us. I do not think the work of the committee would occupy more than a couple of sittings of two hours each, and therefore no very great amount of time will be lost. I move, therefore, that the Bill be referred to a select committee.

**THE HON. J. W. HACKETT:** I beg to second the motion of the Hon. Mr. Leake. I have already spent a little time in running through this Bill, and I find that in a number of ways it differs from the legislation of the other colonies. If it is referred to a select committee we shall be able to get what information we may require on the different clauses in a better way than we can hope to in a committee of the whole House, and therefore I second the motion of the hon. member,

**THE COLONIAL SECRETARY** (Hon. G. Shenton): As far as the Government are concerned, I may say that we have no objection to the amendment proposed by the Hon. Mr. Leake. At the same time we thought that a committee of the whole of a small House like this would be able to go through the Bill quite as well as a select committee.

**THE HON. J. A. WRIGHT:** The great advantage of a select committee is that persons and papers can be called for. The select committee could have before them the Attorney General, the Commissioner of Police, or anyone else, but such could not happen before a committee of the whole.

Amendment—put and passed.

Ordered—That the committee have power to call for persons and papers, and to report on Friday, 18th December.

#### ADJOURNMENT.

The Council at 3:40 p.m. adjourned until Friday, 18th December, at 3 o'clock p.m.

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## Legislative Assembly,

*Tuesday, 15th December, 1891.*

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Game Bill: second reading—Boyanup-Minninup Railway Bill: second reading—Bill of Sale Act, 1879, Amendment Bill: second reading—General Loan and Inscribed Stock Act Amendment Bill: second reading—Mineral Lands Bill: in committee—Adjournment.

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

#### PRAYERS.

#### GAME BILL, 1892.

**THE PREMIER** (Hon. Sir J. Forrest): I beg to move the second reading of a bill entitled an Act to provide for the preservation of imported game and of

native game. Members will at once see the object and scope of this bill. Its object is to preserve imported game and its progeny, and also native game, and to provide a close season for particular native game. There is already an Act in the Statute Book with reference to the protection and preservation of native game, but it was thought it was not comprehensive enough, inasmuch as it did not give sufficient powers to the Government to declare specified areas or reserves for the protection of game throughout the colony. The object of the existing Act was merely to have a close season proclaimed for native game, but that has not been found to answer the object very well; and it is thought now that the time has arrived when specified portions of the colony—Perth Water and the waters near Perth, for instance—should be altogether reserved for game. The necessity for doing this is obvious. At present, if a duck or a swan happens to show itself on these waters, many persons start off at once with a gun determined to kill it. This bill, as members will see, gives power to the Governor, by proclamation, published in the *Gazette*, from time to time to declare a close season in respect of any particular native game, either generally throughout the colony or in any one or more portions of the colony, whether bird or animal.

**MR. RICHARDSON:** Does the wild dog come within that category?

**THE PREMIER (Hon. Sir J. Forrest):** If necessary, I think power is here provided for effectually preserving any native game. I do not suppose the hon. member desires to see the native dog included in the schedule. It will be seen, on reference to Clause 4, that the Governor by proclamation may either declare a close season for any native game, or proclaim and define reserves for such game, or provide that any bird or animal indigenous to the colony shall be at all times strictly preserved, either generally throughout the colony or in any one or more portions of the colony. For instance, we could make a reserve of all Perth Water or of any other part of the colony—I only instance Perth Water as showing the kind of reserve the Government would be likely to make—and no one would be allowed to trespass on that reserve with guns for the

purpose of shooting native game. This would enable all game within that reserve to be strictly protected while the proclamation remained in force. There may be some native birds—very pretty little creatures—that are not very numerous, which it may be desirable to preserve in this way, and this will enable us to effectually protect them. Clause 5 deals with the penalties for destroying imported game. Anyone, without permission of the owner, destroying or disturbing any imported game mentioned in the schedule, will be liable to a penalty of £20, in addition to the sum of 10s. for every bird or animal destroyed or taken. Clause 6 deals with the penalty for destroying native game out of season, and the next clause deals with the penalties for taking or destroying the eggs of prohibited game. Clause 8 provides that, in case of a conviction, the game or the eggs found in the possession of the offender shall be forfeited; and Clause 9 provides that any person offending against the Act shall, when required, give his name and address to any person who may demand it, and also deliver up any game found upon him, otherwise he may be apprehended. Clause 10 provides that the Act shall not apply to birds or animals kept in confinement or domesticated; the next clause deals with forfeitures under the Act. There is also a clause giving summary jurisdiction to magistrates, and an appeal to the Supreme Court. Altogether, I may say that the bill is not very unlike the law as it exists at present, only that it gives greater power, and that is the reason why we are bringing in this bill and cancelling the old law. It merely extends the powers of the Governor for the protection and preservation of native game, where it is necessary to do so, and also for the protection of the imported game enumerated in the schedule. I do not think I need say any more. I think the bill is very necessary, and that it will be found a very useful bill.

**MR. R. F. SHOLL:** I have not had time to look at the bill myself; it was only placed on the table, with four or five other bills, last night, the second reading of which was fixed for to-day. I think the Government are pushing these measures a little too fast through the House.

**THE PREMIER** (Hon. Sir J. Forrest): No, no; they can be postponed as often as you like.

**MR. R. F. SHOLL:** So far as this particular bill is concerned, it is not a matter of much importance, and probably the Government have given it full consideration; but it does seem a farce for the Government to put five bills on the table one night, and ask us to read them a second time next day. As to the present bill, I would point out that among the birds proposed to be protected is the cormorant or shag. Now, considering that this bird destroys a large quantity of fish, I think it is absurd to protect it, and I think it would be a very good thing if it were struck out of the schedule altogether. It is of neither use nor ornament. The pelican is another bird that destroys a lot of fish. The pelican certainly is an ornamental bird, and probably it may be necessary to protect it; still, at the same time, the fact remains that the quantity of fish destroyed on the river by pelicans and shags must be something enormous, and, in placing these birds on the schedule, the question is whether it will not do a great deal more harm than good.

**THE PREMIER** (Hon. Sir J. Forrest): You can strike them out.

**MR. RICHARDSON:** There is only one matter I should like to make a few remarks upon. I notice that the Governor is empowered from time to time to issue a proclamation providing for the protection of any native game, and I presume that this House will have nothing to do with these proclamations, which will simply be the act of the Government. Therefore it appears to me that now is the time for making any remarks we may wish to make as to the birds or animals which it is proposed to protect and preserve. Among these I notice the kangaroo. I think it is very necessary that in some districts of the colony the kangaroo should be protected, but it might operate very detrimentally to other districts. At the North-West, for instance, kangaroos have been a great nuisance, and it has become a very serious question with the settlers whether it is to be sheep or kangaroo. Probably the drought has settled the question by exterminating both. It will require some distinction to be made between one part

of the colony and the other in this matter of the preservation of game, for what may be considered an acquisition or an ornament in one district may be a nuisance and a pest in other parts of the colony. There is another little animal mentioned in the schedule, which we shall have to be very careful in protecting,—the hare. In the other colonies the hare threatened to become nearly as great a pest as the rabbit, and we must be rather cautious how we deal with it here. Though hares may provide a little sport for a few gentlemen, it is just a question to my mind whether we ought to take steps to preserve them or to exterminate them.

**THE ATTORNEY GENERAL** (Hon. S. Burt): I rise to explain a little further than perhaps it would be advisable to do at the present moment, that the schedule of the bill was left exactly as it is in the existing Act, simply so that the House may see what game are now protected under the law as it stands. It does not follow that the present Government are at all in favor of continuing this schedule,—for my part I am not. For instance, the cormorant or shag is protected under the existing Act; why, I do not know. But, as I have said, it was considered better to let the schedule remain as it now is, so as to bring under the notice of members all those birds and animals that are at present included in the Governor's Proclamation, so that they may either leave them in or strike them out. The Government have no intention of pressing the present schedule as it stands. With regard to what fell from the hon. member for the De Grey, as to the protection of kangaroos in the Northern parts of the colony, this bill gives ample power to the Governor to declare a close season for the kangaroo in certain portions of the colony and not in others; and, as the hon. member says, it may be necessary to exercise some discrimination. It will be seen that clause 4 of the bill deals with three different proclamations. One is for a close season, another for reserves where game may not be destroyed at all, and the other deals with the preservation of game either generally throughout the colony or in any one or more portions of the colony. I think the bill gives ample power for dealing with the point raised by the

hon. member, and that if members will study its provisions they will find that all the objections that have been raised can be met when we come to the schedule.

MR. PLESSE: I think it is necessary that some provision should be made for the protection of native game, and I think the kangaroo should certainly be included, especially in some parts of the colony, where there has been a general slaughter for the last four or five years. Within my own district I think there has been something like a million and a-half of kangaroos destroyed since May, 1887.

MR. RICHARDSON: How many?

MR. PLESSE: A million and a-half. Although this slaughter has been a large source of income to the revenue, from the number of skins exported, and also a source of large profit to the people of the district, still I think something should be done to protect these animals, for this slaughter has been going on until there is scarcely a kangaroo to be seen in the district. Some people may be inclined to express satisfaction at that, and be glad to see the kangaroo exterminated; but it must be borne in mind that in outlying settlements the kangaroo has been, in a great measure, not only a source of income to the settlers, but also a means of support, where the difficulty of obtaining other meat has been a great one. I am afraid that the provisions of this bill will not altogether provide for the effectual protection of the kangaroo. The difficulties in dealing with it as regards a close season are very great. We are all aware that the season in which kangaroos breed takes up about half of the year, and during the remaining half it takes them all their time to protect their young. I hope some special provision will be made to give fuller protection to these animals, especially in the Southern portions of the colony. I believe there has been some correspondence with the Government on the subject, and I should like to see that correspondence laid on the table. I do not know whether it is necessary to move for its production; perhaps the Premier may favor members with it, if it is thought necessary. It is a matter that requires to be taken in hand at once. Kangaroos will be exterminated entirely from our part of the colony unless we act promptly. It is

scarcely known the value of the skins that have been exported out of the colony during the last few years, and the loss to the revenue would be very great if the kangaroo were exterminated. It may be desirable, as the hon. member for the DeGrey pointed out, to discriminate between the Northern and the Southern portions of the colony, if at the North, as he says, it is a question of sheep or kangaroo. I can quite understand that. Even in the district which I represent we have found, since the large decrease in the number of kangaroos, that the herbage has to a very great extent improved; but there are portions of the district so thickly wooded, and which are practically of little or no other use, that I think some steps ought to be taken to preserve what are left, for it would be a great pity, and a serious loss too, if the kangaroo were exterminated altogether.

MR. CLARKSON: I really do not think that this bill is one of very great importance; I am quite certain of one thing, whether it is passed or not, it will require a great deal of attention to have it carried out. People, scattered as they are throughout this colony in the bush, pay very little attention to laws of this sort, and it will be a very difficult matter to compel them to do so. The most important matter that I see in the bill is the preservation of the kangaroo. That, also, is a very difficult matter to deal with. Even if half the year were proclaimed a close season, and the other half remained open, you cannot control your kangaroo dogs. You cannot restrain them from attacking the young ones; they will attack young and old indiscriminately; so that if anything effectual is to be done in this matter of a close season for kangaroos, you will have to make it a close season for four or five years, to allow the young ones to come to maturity. With regard to the birds included in the schedule, I see that magpies are mentioned. Nobody kills magpies. I believe there is some sort of superstition that it is unlucky or wrong to do so. There are other birds in the schedule that I know nothing about, such as the "seapie." I never heard of a "seapie" in my district. It may be necessary to preserve such birds—I cannot express any opinion on the subject; but I see a very great difficulty in the

way of effectually preserving the kangaroo.

MR. HASSELL: I think this is a very good bill indeed, on the whole, and I have much pleasure in supporting it. But with regard to kangaroos, I think they do not want protecting at all. In my district there is so much poor country that they are quite sufficiently protected as it is, without a bill of this description. If we take more stringent steps for their protection we shall take away from a large number of people a certain means of subsistence, and you deprive others of meat, who are not engaged in hunting them for their skins. But, with the exception of the kangaroo, I think the object of the bill is a good one, and I shall have great pleasure in supporting it.

Motion put and passed.

Bill read a second time.

#### BOYANUP-MINNINUP RAILWAY BILL.

THE PREMIER (Hon. Sir J. Forrest): I rise to move the second reading of a bill to authorise the construction of a railway from Boyanup to Minninup Bridge. As members are aware, the proposed railway is an extension of the railway from the present terminus at Boyanup, 15 miles from Bunbury, to a place called Minninup Bridge. Probably some hon. members do not know the locality, but others know it very well. Boyanup is situated on the Preston River, on the main road to the Blackwood, to the Greenbushes tinfields, and to Bridgetown, and also to the Warren; it is also on the high road to the Upper Preston. Last session it was determined that the present railway to Boyanup should be extended eleven miles farther, to Minninup Bridge, which is at the junction of two roads, one leading up the Preston River—a very beautiful and fertile district—and the other leading in the direction of the tinfields and Bridgetown. The line will prove of the greatest assistance not only in the agricultural development of that part of the colony, but also in the development of our tinfields, which are progressing satisfactorily. The bill is a very small one, as members will notice. It is merely carrying out the wishes of this House as expressed in the Loan Act of last session, in which a sum of money was provided for the purpose of continuing this rail-

way eleven miles; and I do not propose, at the present time at any rate, making any lengthy remarks with reference to this work, because we completely threshed out the subject last session, and there has been no dissolution since; so that most of the members who are here to-day were here then, and voted for the Loan Bill of which this railway formed a part. During the recess the Government have made trial surveys of the line, and everything is now ready to carry on the permanent surveys and to call for tenders for the construction of the railway,—all except this special bill, which is necessary in order that the Government may enter upon and take any private lands through which the railway passes. It is necessary that the Government should have this statutory power, which is the real object of the present Bill; and another object is that the House may approve of the route the railway is to follow.

MR. RICHARDSON: Will the hon. gentleman explain whether the trial survey tends to show that the line will be an expensive one, or one simple and easy of construction?

THE PREMIER (Hon. Sir J. Forrest): The result of the trial survey is to show that the line is a most inexpensive one. It is perfectly level the whole way. Of course that is not difficult to understand, when it runs along the Preston River, from Boyanup to the terminus. It is a very easy line, and the Government believe it can be carried out for the amount set down in the Loan Bill. I need hardly tell members who are acquainted with the district that this Preston River country is certainly one of the most beautiful places in the whole colony. The Preston is a permanent stream, which empties itself into the estuary at Bunbury; it has never been known to fail in the greatest drought, and I suppose it never will. The land is good along its banks, and, altogether, I think it is one of the prettiest spots in the colony. It also taps a very important district, the Blackwood District, where, as everyone knows, there is a large quantity of agricultural land, the only obstacle to its development being a cheap means of transit coupled with the difficulty of expensive clearing. No doubt, in these Southern districts, the

difficulty of getting rid of the timber on the land is a very serious one. Still, so far as my experience goes, or so far as I can judge, when you do have it cleared it well repays you afterwards for the outlay. In these districts in the past there has been no great amount of public money expended. With the exception of a few roads cleared—I can scarcely call them made—here and there in the early days, many years ago, there has been very little public expenditure incurred, as compared with other parts of the colony. And I will say this of these Southern districts: although in the past they have not been able to enjoy the expenditure of money that has been borrowed for the development of the resources of the colony in other parts, they have never been very demonstrative in crying out against any injustice done to them. They are not like some districts which, after having received the benefits of railway communication themselves, seem to object, and hold public meetings and write to the newspapers, and make up deputations decrying against other districts, or at any rate trying to keep from other districts the benefits and advantages they themselves have received. I look upon this bill as merely the sequel of our action last session, when this House passed a Loan Bill giving authority to the Government to raise the money for the purpose of building this railway. That bill, including this line, was passed through this House, after a considerable amount of discussion, without any division; and therefore we are now only carrying out what we were instructed or commanded to do by the unanimous approval of this House. [Mr. R. F. SHOLL: No.] The hon. member says no. If he did not approve of the work, why did he not divide the House? On the records of this Assembly it is shown that this railway was passed without a division. Although one or two did speak against it, they did not divide the House, and therefore I say it received the unanimous approval of the House.

MR. R. F. SHOLL: Not necessarily, because a proposal to divide the House must have a seconder.

THE PREMIER (Hon. Sir J. Forrest): We will except the hon. member, then. The reason why I have not come here

with a lot of statistics and a long speech is because I consider this bill is merely the necessary sequel to what we decided upon last session. I beg to move its second reading.

MR. R. F. SHOLL: I do not intend to detain the House by offering any opposition to this bill, because, as the Premier has said, this work was agreed to last session. Still, at the same time, I do think it rather a big order to ask us to agree to such a large expenditure as £360,000 for a population of 2,000 or 3,000 ("Oh, oh")—well probably 4,000 or 5,000. With regard to no public money having been expended in this district in the past; I think the Southern parts of the colony have had their fair share of public expenditure hitherto. Of course if this railway will do all that the Government anticipate in the development of the land, I have no doubt it will be money well spent. But I should myself have preferred to have waited and seen what the result of the Bunbury line will be before extending our railway system any further in this direction. I should like to be informed by the Government what the receipts have been on the Boyanup line since it started; it would be some indication of what this new line is likely to do in the shape of being re-productive. I have heard, and I have no reason to doubt it, that the receipts from the Boyanup line have exceeded expectation.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn): It has paid its expenses.

MR. R. F. SHOLL: I think that is fairly satisfactory. I have no wish to take up the time of the House, but I am still of the same opinion that the Government seem to think that in the matter of loan expenditure only one part of the colony requires particular attention, and that is the districts represented by two of the members of the Ministry.

MR. LOTON: We have before us at the present time not the question of a railway to the Southern Districts, but simply the question of a continuation of the Boyanup line to Minninup Bridge. Although during last session I was possibly as much opposed to the construction of a railway to the Southern Districts from Perth in the first instance as any member, I was at the same time not

opposed to the continuation of this line from Boyanup Bridge to Minninup. I think this is the very first line that should have been undertaken in the Southern District, and, without going into details in any way, I have much pleasure myself in supporting the second reading of this bill.

**MR. RANDELL:** I think this one of the lines that is likely to operate in the direction most calculated to benefit the colony. But I have been informed, and I am inclined to think, that a great deal more good would be attained by the extension of the line four or five miles farther. I do not know the locality myself, but the reason assigned to me was that the teams from the tin-mines would be able to reach that place in a day and return the next, whereas if the terminus is at Minninup Bridge it will entail two days journey each way. That is a very important consideration, if true. I think every effort should be made to provide rapid means of communication. I believe this is a part of the colony capable of very great development, not only as regards the growth of fruits but in other things as well; and I am very glad indeed that the line to Boyanup has paid its expenses, which seems an indication that the proposed extension will be of great benefit to Bunbury and the district generally. This and the Yilgarn Railway are the two lines I consider of the most importance to be first undertaken. No line will help us to develop the country more quickly than the line to Yilgarn, that is by opening up our gold-fields, the success of which there can be no question now are fully assured. Indeed there was no question, to my mind, at the last meeting of Parliament, on that point; and no doubt we shall soon have a large population settled there, which will form a market for the produce of the land in other parts of the colony, and push this country ahead probably more than anything else that I can think of. I have pleasure in supporting the bill now before the House.

**MR. CLARKSON:** When it was proposed last session to construct the Southern line, I was very much inclined to oppose it, thinking that there were other more pressing works required,—the railway to Yilgarn, for instance, for one. Now, however, that it has been decided

to extend this railway in the direction of Minninup, I shall have very great pleasure in supporting the second reading of this bill. But I think that to make the line of still greater utility it will be necessary to extend it a little further. Many years ago I visited this district—which I think I am right in saying goes in the direction of the Blackwood, where I saw some splendid country. I must say I never saw finer country in the colony, and if it were proposed to extend this line to that district I should be happy to support it, for I consider that any district without railway communication is handicapped and quite out of the running.

**MR. A. FORREST:** I only rise to inform the hon. member for the Moore (Mr. Randell) that it would be impossible for the Government or this House at present to entertain the proposal to carry this railway five miles further, for the great question of route would at once crop up,—whether it should follow the valley of the Preston or go direct to the tinfields. No doubt if it followed the valley of the Preston a large amount of agricultural land would be opened up in the future; but, at the present time, I think it would be doubtful whether it would be advisable to run it that way, as we are not yet certain whether the mineral country extends that far. So far as I am concerned, I intend to support the railway policy of the Government, as I did last session. I think we would be putting ourselves in a very peculiar position, after passing these railway schemes last session and the colony going to a large expense for surveys, if we were now to change our minds. Nothing has happened to the land, nothing has altered the prospects of the Southern Districts or the Geraldton district, or Yilgarn, to warrant us in altering our minds. On the contrary, I think our prospects are brighter than they ever were, and I hope that those who voted for these railways last session will do so on this occasion, for there has been nothing at all, to my mind, to warrant any change of front.

**MR. HASSELL:** I am very glad to support this bill. I am only sorry the Government did not see their way clear to carry the line still further,—very sorry indeed. I hope that some time hence I may have the pleasure of supporting

another bill for further extending it towards the Blackwood.

Motion put and passed.

Bill read a second time.

BILLS OF SALE ACT, 1879, AMENDMENT BILL.

THE ATTORNEY GENERAL (Hon. S. Burt): I have to move the second reading of a bill to amend the Bills of Sale Act, 1879, and to extend the security on future and after-acquired property. This bill is not one that will raise much interest, perhaps, in the minds of the members of this House, but still it is a bill of some importance, and the 3rd section contains a principle that is quite an innovation, and one of considerable importance indeed. No doubt the House is aware that when a bill of sale is executed over personal chattels, including sheep and other live stock, it has to be registered within a certain time in the Supreme Court. In practice it has been found that, dealing with the Northern portions of the colony and other outlying districts, it is almost impossible, within the time limited, to get back these documents duly signed and properly executed for registration. Clause 14 of the existing Act, which clause it is now proposed to repeal, gives power to a Judge to extend the time for registration, and rectifying any omission or misstatement, as to name, residence or occupation, in a bill of sale, if the mistake was due to accident or inadvertence; but it leaves it to the Judge's discretion whether he will do so or not. This bill proposes to provide that, under certain conditions, the Judge shall necessarily extend the time for registration. In outlying Northern districts, owing to various circumstances—in the absence, for instance, of a justice before whom the necessary affidavits for rectifying omissions have to be signed—bills of sale, after putting the parties to great expense, often come back to Perth in such a state as to make it almost impossible to register them, or to obtain a rectification by the Judge. Matters that come under the head of accident or inadvertence are defined in the Act, and very often a difficulty is created. I know, myself, of bills of sale sent to the North to be executed, and, after some months have elapsed, they have come down so irregular that the whole thing

has to be gone over again. We now propose to repeal the 14th clause of the present Act, dealing with this matter, and to enact a clause which says that a Judge, on being satisfied that the omission to register was not due to neglect or inadvertence on the part of the grantee—that is, the person to whom the bill of sale was given—shall extend the time for registration; we do not leave it, as in the old Act, in his discretion to refuse to extend the time because he did not think that technically the omission was due to accident or inadvertence. For instance, the omission might have been caused by the steamer being delayed, and this delay would put the whole thing out of train, and the bill of sale could not be registered, the Judge holding that that was not an accident or inadvertence within the meaning of the Act. But we now propose, as I have said, to make it peremptory, rather than discretionary, with the Judge to extend the time for registration, on such terms and conditions as he may think fit to direct, although the statutory time for registration had expired. I think, with these few remarks, the House will see the object of this clause. Then we come to the 3rd clause, which, as I have already said, contains a new principle altogether, but which I trust the House will approve. It is proposed to give greater security or to extend the security over personal property. Under the present law, with regard to personal chattels, live stock, and goods of all sorts, a man very often, in order to raise funds, gives a bill of sale not only over the goods or live stock he possesses at the moment, but also the progeny of such live stock, or any goods he may hereafter acquire or become possessed of in course of time. In the case of bills of sale over sheep this is invariably done; in fact, the security of live stock is worth little or nothing, as members know, unless the progeny of such stock, to be substituted for those now in existence, are included in the bill of sale. Unless this were done, the sheepowner or stockowner would really be unable to obtain any advances upon his live stock. But, under the law as at present, a mortgagee, or grantee of a bill of sale, is in danger of losing that security in respect of after-acquired property; he is simply depen-



dent on the honesty and good faith of the grantor. This matter was brought particularly to the attention of the Government last year or the year before, when a case occurred in connection with some pearl shells at the North-West, where a certain commercial institution had held a bill of sale over shells to be after-acquired. The money was advanced by the Bank to enable the grantor to carry on his livelihood as a pearler, but it so happened that a question arose between the parties and the holder of a subsequent bill of sale which covered the after-acquired property; and it was found that the security given for the money advanced by the Bank, and which enabled the grantor to carry on and obtain his shells, was of no avail, because the man had given this second bill of sale, which ousted the other security. The security on after-acquired property has always been subject to this drawback, that it depends entirely on the honesty of the man himself. This 3rd section is designed to obviate and to remedy this difficulty, and to make the security of after-acquired property a good security. With that view the clause says that the legal interest in such property shall be deemed to pass at law to the grantee of a bill of sale immediately upon the coming into existence of such property. For instance, in the case of sheep, as soon as the lambs are dropped, or, in the case of shells as soon as they are brought on board a boat, they shall be deemed in law to pass at once to the holder of the bill of sale. I think the members of this House will see that this is only just and right. If this section is not enacted we leave it open to the sheep farmer or the pearler or the stockowner, who gives a bill of sale over after-acquired property, to commit a fraud upon the person who advances him the money; and it is with the view of preventing that, that the Government propose to enact this 3rd clause. I hope I have been able to explain the object in view, and that members will see the necessity of the bill.

Motion put and passed.

Bill read a second time.

GENERAL LOAN AND INSCRIBED  
STOCK ACT AMENDMENT BILL.

THE ATTORNEY GENERAL (Hon. S. Burt): I have now to move the second

reading of a bill to further amend the General Loan and Inscribed Stock Act, 1884. It will be in the recollection of some members that this Act was amended last year, when, owing to the alteration in the Constitution and in the relation of the Crown Agents to the colony, it was necessary to substitute the Agent General in London as the person to transact the business of the colony in England, instead of the Crown Agents. At the moment, the Government were uncertain how far they might deal with the question of sinking funds, in the hands of the Crown Agents, named by the Secretary of State as the trustees. It has been ascertained since that the sinking fund of the Loan of 1891, and, in fact, of any future loans, may be invested in trustees not named by the Secretary of State, as required by the Act of 1884, but in trustees named by this Government; and it is now suggested that the appointment of these trustees shall be left in the hands of the Financial Agents of the colony in London for the time being, with the concurrence in writing of the Governor in Council. At present our Financial Agents are the London and Westminster Bank, and we propose that the sinking fund of our last loan and of all our future loans shall be invested in the names of trustees appointed by them. I may add that the London and Westminster Bank has seen the draft of this bill, and quite approve of the terms of it.

Motion put and passed.

Bill read a second time.

MINERAL LANDS BILL.

The House went into committee on this Bill.

Clause 1—Division of Act:

Agreed to.

Clause 2—"The Mineral Land Regulations proclaimed on the 2nd March, 1887, are hereby repealed, but such repeal shall not affect any rights, claims, or liabilities already accrued or incurred under those regulations: Provided, however, that all mineral leases issued under those regulations shall be subject in all respects to the labor conditions prescribed by this Act and the regulations made under this Act":

THE PREMIER (Hon. Sir J. Forrest), in order to make the clause more clear, moved to strike out the words at the

commencement of the clause, "The Mineral Land Regulations proclaimed 2nd March, 1887," and to insert in lieu thereof the following words: "So much of the Land Regulations proclaimed on the 2nd day of March, 1887, as are comprised in Part VI., sections 80 to 92 inclusive, 'Mineral Lands.'"

Agreed to.

SIR J. G. LEE STEERE said as this bill interested his constituents more than any others in the colony now—although he hoped that hereafter it may equally interest other parts of the colony—and, as he had no opportunity of commenting on the bill when it was read a second time, he should like to make one or two remarks with regard to some of its provisions. He had received several communications with reference to the bill from constituents, who though generally approving of the bill—and he thought, himself, it was a very good bill indeed—still thought there were one or two matters in it that should be cleared up. One related to this clause, which provided that the rights of existing lessees as regards the conditions under which they held their leases should not be interfered with. He thought it was only just that the present lessees should not lose any privileges which they now possessed. He quite agreed that the Government in proposing that all leases shall be worked under certain labor conditions were acting quite right, for he considered that under the existing regulations they had power to impose such conditions; but there was another clause in the bill which provided that every man engaged in mining shall be possessed of a mining license, for which he would have to pay £1. He thought that would be imposing a condition on existing lessees which they were not liable to at present, and he should be obliged if the Attorney General would give his opinion on that point. In any case he thought the fee proposed was too high.

MR. RICHARDSON said the clause appeared to him to be retrospective, and he did not think it was wise to legislate in that direction as regards leases issued under a previous law. It might land us in a difficulty.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) said if the hon. member would look at the existing Mineral Land Regulations he

would see that they contemplated labor conditions, though no such conditions were actually imposed; and the object of this bill was to let those who had taken up mineral land under the old regulations know the nature of the labor conditions now about to be imposed, and which might have been imposed under the old or existing regulations. The conditions of the colony had changed very materially since the Land Regulations of 1887 were framed. We had no idea then that the colony would have become such a mineral-producing country as it now gave every prospect of becoming, and he thought this was a good time, now that they were bringing in this bill, to impose the same labor conditions upon all.

MR. RICHARDSON asked if the labor conditions proposed by this bill were the same as under the existing regulations?

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) said there were no specific labor conditions under the old regulations—those who held mineral leases were simply expected to work them; but, in many cases, this was not done, simply because no labor conditions had been imposed. It was now proposed to put them all upon the same terms as regards working their areas. There was nothing in the present bill as regards labor conditions that had not been contemplated when the old regulations were framed.

SIR J. G. LEE STEERE thought it would be imposing fresh conditions upon present lessees to prevent them employing any man who had not taken out a mining license and paid £1 for it. Of course this would come out of the pockets of the lessees, and that was a condition that was not contemplated under the existing regulations.

THE ATTORNEY GENERAL (Hon. S. Burt) thought it would be very difficult and lead to a great deal of confusion if existing lessees or the men employed by them were exempted from this condition and others not exempted. These men might be working for somebody else to-morrow. The same provision applied to the goldfields, where every man had to obtain a miners' right.

MR. TRAYLEN asked whether this condition would apply to mineral land held under fee simple?

THE ATTORNEY GENERAL (Hon. S. Burt): No; only to Crown lands.

Clause, as amended, put and passed.

Clause 3—Interpretation:

THE PREMIER (Hon. Sir J. Forrest) moved to add the following words:—“‘Miners,’ ‘Miner’—Any person being the holder of a Miner’s License, or any number of persons, each being the holder of a mining license; the singular to include the plural, and the plural the singular.”

Agreed to.

Clause 4—Mining licenses to be issued on payment of a fee of £1:

SIR J. G. LEE STEERE moved to strike out “£1” and substitute “10s.” He understood the bill was drawn up entirely in accordance with the Queensland Act, and that the regulations to be framed under it would practically be the same as the Queensland Regulations; and he noticed that a mining license in that colony, with very much richer tinfields than ours, was only 10s. He thought that would be quite enough to charge here, especially as everyone working on a mineral area must have one of these licenses, which, as he had already said, was a condition and an expense that was not contemplated by the old regulations.

MR. RICHARDSON seconded the reduction of the fee.

THE PREMIER (Hon. Sir J. Forrest) said he had no objection to the amendment. Of course this Act would necessitate some additional expenditure, and £1 did not seem a very large amount to pay for a year’s right of prospecting all over the lands of the colony. The gold miner had to pay £1 for his privilege; but, if the committee wished to reduce the fee in the case of other miners, he would offer no objection.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 5—Rights and privileges of mining licenses:

MR. TRAYLEN said that according to sub-section 2 of this clause “all land occupied for mining by virtue of a mining license shall be worked continuously and *bonâ fide* in accordance with the regulations.” If members would look at the bill in a general way they would find that it made provision for two classes of persons (roughly speaking)—the small capitalist who was expected to work him-

self, and for whom provision was made so that he could do so with advantage to himself, and the larger capitalist or the company that might take up leases and carry on operations on a very much larger scale. He could not help thinking that in the way of the small capitalists there were a good many pitfalls in the bill. Among the conditions imposed was that he shall work his claim continuously, and although there was nothing in the clause now before them about forfeiture in the event of his not working it continuously, they were entitled to assume, on reference to a clause further on, that forfeiture would be the penalty, and the only penalty, for not working a claim continuously. This might work great hardship in the case of an individual miner, with little capital of his own. Possibly the man may have been prospecting outside a declared mineral district, but in country where he thought minerals existed; and, after spending a good deal of time and labor, he might make a promising discovery. He would then have to leave his claim and seek the assistance of capitalists to work it; he would also have to make his application for a license to some distant person, and in the meantime somebody else might step in and claim all the benefits of his discovery. Or the man might be taken ill, or have other pressing calls, and working single-handed it might be extremely difficult for him to go to the Registrar and present such a case as would enable him to prevent his claim being forfeited. He thought there ought to be some alternative in such cases, and that a fine should be imposed, under certain circumstances, instead of absolute forfeiture. Members who had observed the working of the Goldfields Act would have come to the conclusion that there had been many knotty questions for the Commissioner of Lands to decide as to whether certain claims should be absolutely forfeited or not, for non-compliance with the labor conditions; and the same kind of questions would arise under this bill, if allowed to stand as it now stood. He took it that the Golden Gate case presented some features which were puzzling to some minds as to whether forfeiture did not take place there. The labor conditions, he thought, were not observed in their absolute integrity, still the claim was not for-

feited. The object of the amendment he wished to move was to provide that in cases where there was not much laxity, but some laxity, some other penalty might be imposed short of absolute forfeiture, according to the degree of laxity shown. His amendment was to substitute the following provision in lieu of the 2nd sub-section, already referred to: "All land occupied for mining by virtue of a mining license shall, after finding a payable mineral, and procuring a marketable quantity, be worked continuously and *bonâ fide* in accordance with the regulations, and such regulations may provide a fine as a penalty for not working continuously, and forfeiture if such fine be not paid within thirty days of the imposition." The reason he had named thirty days was because he found that, in the case of non-payment of rents for leases under the Land Regulations, thirty days' grace was the time allowed before forfeiture. He thought the sub-section as it appeared in the bill, and the forfeiture clause later on, were somewhat inconsistent with the strong words they had heard the other day from the Government benches, and especially from the Premier, with regard to forfeiture; and he could not help thinking that the working of this forfeiture condition was calculated to create a good deal of soreness, and that it did not operate with the same amount of harshness in all cases. In some cases—and they were the cases which perhaps called for the least consideration—non-compliance with the labor conditions might not be regarded as entailing absolute forfeiture, while in other cases it might be held that there was no alternative but forfeiture. He could not help thinking that in the case of the capitalist the non-enforcement of the forfeiture clause was like throwing a top coat and an umbrella over him for his protection, whereas to leave no alternative but absolute forfeiture in such cases as he had referred to of a poor man, working single-handed, was not only to deprive him of his top coat but also his trousers. The amendment now proposed suggested a way of mitigating this harshness. There was always a guarantee on the part of a poor man that he would go on working his area, because he had already expended his time and labor upon it; and

he did think that in certain cases a fine would be ample penalty for a technical non-compliance with the labor conditions as to working a claim continuously.

THE ATTORNEY GENERAL (Hon. S. Burt) thought the hon. member had overlooked, altogether, the words at the end of the sub-section, which provided that claims should be worked "in accordance with the regulations." The regulations to be framed under the bill would deal with these questions of detail. In matters of this sort it was impossible to lay down, in an Act of Parliament, all the minutiae and details relating to the working of mineral lands; these had to be provided for in the regulations, which, though having the force of law, could be altered more readily than an Act of Parliament. The hon. member would find all he had referred to provided in the regulations. If a man discovered anything worth having, he generally pegged it out, and made his application to have his claim registered; and the regulations would protect him while he was away doing that, otherwise they would be grossly foolish regulations. They would also define what "continuously working" meant, and would provide for absence from sickness, for holidays, and all such exemptions. In fact everything the hon. member had mentioned would be provided for in the regulations, which was the proper place for them. The Act itself contained the bare enactment that the land occupied shall be worked continuously and *bonâ fide*, in accordance with the regulations.

Mr. SIMPSON was understood to say that the bill, as it stood, was a very useful measure in the interest of the development of the mineral lands of the colony, and he was afraid that if they adopted the amendment it would detract from the efficacy of the Act, and tend to check rather than encourage the *bonâ fide* working of our mines. To provide a fine and give thirty days' grace within which to pay it would simply lead to the "shepherding" of claims, instead of to their *bonâ fide* working. A small fine would not necessarily have the effect of enforcing the labor conditions, and, if a man paid his fine, he could go on "shepherding" his claim until he became liable to another fine, and so on *ad infinitum*, thus shutting out some more enterprising

man, to the detriment of *bonâ fide* mining. As to the case of the "poor man," or the comparatively poor man, the curse of mining in this colony had been the consideration shown to the comparatively poor man. He had himself had considerable experience in mining matters here, and, so far as he had seen, your comparatively poor man as a rule developed into the mining shepherd. He thought the clause as it stood was one of the most essential in the bill. The regulations, he presumed, would provide all the hon. member aimed at. It was a pity, considering our comparative adolescence in mining matters, that the proposed regulations had not been laid before the House, for he was sure they would have assisted them in dealing with the bill itself. The only wish of the Government, he took it, and of the House was to discourage dishonest mining, and to encourage people to work their claims in a *bonâ fide* manner. This was the main object to be borne in mind. The law should be made to protect the honest man and not to assist rogues and cheats. The clause as it stood aimed at this, and he thought it was essential for the protection of those whose wish was to work honestly, as well for themselves as for the development of the mineral resources of the colony.

MR. CANNING said it appeared to him that the amendment would have the effect of enabling the holders of claims to evade forfeiture altogether, by simply paying a fine when it was imposed, and then allowing the claim to remain unworked until another fine was imposed, then pay that again, and so on continuously.

MR. TRAYLEN presumed the fines would be so arranged as to prevent any man acting in that way. The regulations would provide for that.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) said the regulations would be laid on the table shortly, and probably that would be the best time for the hon. member to make this suggestion, rather than in the bill itself. He did not think they would derive much benefit from discussing the matter now. This was one of those questions of detail that could be better dealt with in the regulations. As to what had fallen from the hon. member

for Geraldton about the regulations not having been laid on the table, he did not think it was usual to submit regulations based upon an Act of Parliament before the Act itself was passed. He thought if the hon. member for Greenough would withdraw his amendment now, the same object would be attained when the regulations were laid before them.

MR. TRAYLEN said that so far as the clause now under consideration was concerned the amendment was not of great importance, but it became a very serious matter further on in the bill, where there was a clause providing that, in case of non-compliance with the continuous working condition, the only alternative was forfeiture. He would consent to withdraw the amendment now, but would introduce it later on.

Amendment, by leave, withdrawn.

Clauses 6 to 10 :

Agreed to, without comment.

Clause 11—Certain lands to be exempted from occupation by the holder of a mining or business license :

MR. CANNING thought that in addition to lands in actual occupation and on which a house had been erected, or land under cultivation, or land on which a reservoir had been made or a well sunk, they should go a little further and exempt land that was immediately contiguous. He also thought that any waterway by means of which a reservoir was supplied should be included in the exemption, otherwise it would be possible for the means of conveying water to a reservoir to be cut off. He therefore moved to insert the words "or waterway," in sub-section 3, and to add the following sub-section: "Land within 300 yards of "any land specified in the three preceding sub-sections." The limit was not very large, and he did not think there could be any objection to it.

Amendments put and passed.

Clauses 12 to 15 :

Agreed to, *sub silentio*.

Clause 16—Conditions of leases :

MR. TRAYLEN said this clause provided for the forfeiture of a lease on failure to perform any of the covenants specified, "continuous working" being among those covenants. He had already, when dealing with a previous clause, expressed his intention of moving an

amendment with reference to that matter providing some alternative besides absolute forfeiture. He thought it was very desirable that some alternative should be provided, otherwise very serious hardship might occur in some instances. He might mention the case of the companies who had been working or trying to work the coal area at the Irwin. Everything had gone from them now through forfeiture. Surely such a case might have been met by the imposition of a fine. If they afterwards failed to go on working their areas, they could have been forfeited. He moved an amendment, providing for the imposition of a fine on failure to perform the "continuous-working" covenant of a lease, and forfeiture of the lease in the event of the non-payment of the fine within thirty days.

MR. SIMPSON said this fining procedure had not been adopted in Australian mining up to the present, and he did not think we were so far ahead of the other colonies in mining matters as to warrant us in making a fresh departure upon this new line. He did not suggest that we should copy all their mistakes, or adopt all their procedure, but he did think we ought to be very careful in introducing a new feature of this kind into our mining laws. As he had already pointed out, this system of fining would simply lead to what was called "shepherding." A man, rather than work his claim or sell it at a fair price, would simply pay the fine, and so keep out another man who would be ready to purchase the claim and work it until he got his own price for it. He thought this question of forfeiture was a matter which had better be left in the hands of a responsible Minister of the Crown.

THE PREMIER (Hon. Sir J. Forrest) said this clause was exactly the same as the clause in force in Queensland, word for word. It was also in accordance with the Land Regulations of this colony as regards forfeiture of leases. He did not think there was any great hardship about it, for the conditions were very reasonable and not difficult to perform. Moreover, these fines might operate unfairly in some instances. One man might be able to pay the fine, and so evade forfeiture, while another man perhaps could not pay his fine. In the former case we might have the lease hung

up for years, while in the latter case it would be forfeited within 30 days. The object of the bill was to compel those who held mineral land to work it, and it was only right they should do so.

Amendment put and negatived.

Clauses 17 to 37 :

Agreed to without discussion.

Clause 38—Appeals from Registrar's decision, &c. :

SIR J. G. LEE STEERE asked whether it was intended to designate this officer, who was also referred to in previous clauses, a Registrar or a Warden.

THE PREMIER (Hon. Sir J. Forrest) said he had no particular feeling in the matter. The reason he had given this officer the title of Registrar was to distinguish him from the Warden of a goldfield. In Queensland and Tasmania they called this officer a Commissioner; but there were already so many Commissioners in this colony—Commissioner of Crown Lands, Commissioner of Railways, Commissioner of Titles, Commissioner of Police, Commissioner of almost everything—that he thought it would not be a good thing to have another Commissioner. He thought it would have led to confusion to designate him a Warden, which he thought was more applicable to a goldfield, and it appeared to him that Registrar was as good a title as they could give this officer. But if the House preferred to call him a Warden he had no objection.

MR. A. FORREST said a Warden was a highly paid officer, and if we called these Registrars by that name they would expect to be highly paid as well, whereas he thought there was no necessity for these officers being highly paid, like the Warden of a goldfield.

THE PREMIER (Hon. Sir J. Forrest) could not agree with the hon. member in that. He looked upon the Registrar of a mining district as quite as important a man as the Warden of a goldfield. Nor could he agree with the hon. member that our Wardens were highly paid officers, considering their position and what they had to do. The Registrar of a mining district, he thought, ought to be worth £250 or £300 a year. He would have very large powers over a large extent of country; he would also have to hold a court, and he ought to be a man in whom the public

and holders of mining licenses would have confidence—upright and independent; and we could not expect to get that class of men unless we paid them a decent salary.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) thought it would be a great mistake to alter the title of this officer from Registrar to Warden; it would lead to a good deal of confusion, and there would be a difficulty in distinguishing the two offices. With regard to the salary, it might happen that a mining district might be included within the area of a proclaimed goldfield, in which case the Warden might also act as Registrar, and so save the salary of two officers.

SIR J. G. LEE STEERE said he had no particular love for the name of Registrar or Warden, but he would point out what might happen. The person appointed Registrar over a large mining district, and who was the officer to receive applications, grant licenses, and do other things under the Act, might (and in all probability would) have to travel a good deal from one part of the district to another, and it would be absolutely necessary to have some officer on the spot to register claims, and so on; and he should have thought that the proper name for that officer would have been the Registrar.

THE PREMIER (Hon. Sir J. Forrest) said the Registrar would probably require a clerk, who might be called deputy registrar or sub-registrar, to act in his absence.

Clause put and passed.

Clauses 39 to 48:

Agreed to, without comment.

Preamble and title:

Agreed to.

#### ADJOURNMENT.

The House adjourned at 4:30 p.m.

## Legislative Assembly,

Wednesday, 16th December, 1891.

New Wire for the Telegraph Line between Derby and Hall's Creek and Wynham—Water Supply, North Ward, Fremantle—Mineral Lands Bill: Committee's Report—Boyanup-Busselton Railway Bill: second reading—Bankruptcy Bill: second reading: referred to Select Committee—Bills of Sale Act, 1879, Amendment Bill: in Committee—Registered Offices of Mining Companies—Adjournment.

THE SPEAKER took the chair at 7:30 p.m.

#### PRAYERS.

#### NEW WIRE FOR KIMBERLEY TELEGRAPH LINE.

MR. A. FORREST asked the Director of Public Works when tenders were to be called for placing new wire on the telegraph line between Derby and Hall's Creek, and Hall's Creek and Wynham.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied: The material is on its way from London in the "Soukar," which should arrive at Fremantle about the middle of January. Immediately the vessel arrives, tenders will be called for this and other telegraphic lines provided for in the schedule of "The Loan Act, 1891."

#### WATER SUPPLY, NORTH WARD, FREMANTLE.

MR. PEARSE asked the Director of Public Works if it was his intention to extend the Fremantle Water Supply in the North Ward, from Market Street, along Cantonment Street, to Edward Street?

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied: Yes; the Government purpose placing a sum on the Estimates to cover cost of laying a main from Market Street along Cantonment Road to Edward Street—as also for a service extending the Water Supply to the South Ward along South Terrace to each street as far as Fitzgerald Street. In the meantime, small pipes are being laid as far as Howard Street, with stand pipes at the intervening streets.