

Legislative Council,

Tuesday, 12th January, 1892.

Public Officers Bill: first reading—Third Judge Bill: first reading—Municipal Institutions Act Amendment Bill: first reading—Settled Land Bill: second reading—Sharks Bay Pearl Shell Fishery Bill: in committee—Game Bill: in committee—First Offenders Bill: in committee—Adjournment.

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

PRAYERS.

PUBLIC OFFICIALS TITLES BILL.

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

THIRD JUDGE BILL.

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

MUNICIPAL INSTITUTIONS ACT AMENDMENT BILL.

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

SETTLED LAND BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Shenton): In moving, sir, the second reading of a bill for facilitating sales, leases, and other dispositions of settled land, and for promoting the execution of improvements thereon, I may state that it is a measure based on a similar enactment in England, and which is also in force in the other colonies, the present bill being almost a *verbatim* copy of the Queensland Act. At the present time, in this colony, not many persons are interested in the provisions of this bill, but as time goes on no doubt more will be, and the Government think that the few persons who are interested in this colony at the present time are entitled to the same facilities as other residents of Australia. The main object of the bill is to enable tenants for life and holders of property under settlement to deal with the property—in fact, to a certain extent, to break the settlements. Part II. of the bill contains the various definitions. Clause 8 states who the trustees are, and clause 10 deals with the powers of a tenant for life. At the pre-

sent time in this colony large properties are held by persons who have only a life interest in them. As the holders fortunately have no families, the property will go to the heir-at-law, and perhaps that may be a person they have no particular wish any money they expend on the property during their life time should go. The provisions of this bill meet a case of that kind. Then, where a large estate is required to be improved, the tenant for life is empowered to make the improvements, providing the means either by sale, exchange or partition. The 11th clause shows how a sale may be made—either by exchange, by auction, or privately; but no tenant for life is empowered to exchange settled land in Western Australia for land outside of Western Australia. He may also grant leases—a building lease for 30 years, a mining lease for 21 years, and in the case of any other lease, 21 years. If the land be sold, the money will be still available because it must be invested in such a way as the Court may direct. A tenant for life, however, cannot sell a mansion or park; but all other portions of the estate may be sold. The 27th and 28th clauses relate to property held by married women, and the bill gives them the same powers as is in the case of property held by men. Part IV. of the bill deals with investments, or other applications of trust money, and improvements. In this colony there are large tracts of land which it is advisable, not only in the interests of the tenant for life, but also in the interest of the colony, which should be divided and part sold so as to give the tenant for life the funds to improve the remainder. Without this bill these properties may still go on in the same unimproved state year after year. The tenant for life cannot make away with the capital money, because the bill provides how it is to be invested, nor will he be able to spend the money as he likes; but only under the provisions of this bill, with the approval of the Court, or the trustees under the settlement, if there be any. Part V. deals with the mode of exercising the powers. Part VI. deals with trustees, and Part VIII. with settlements by way of trust for sale. I think I have explained sufficiently the scope of this bill. As under it we propose to give large powers to tenants

for life, hon. members will see that those entitled to the reversion have been well protected. In fact the property when it descends to them will place them in a better position than they otherwise would be, for it will be improved. I now, sir, move the second reading.

THE HON. G. W. LEAKE: How is it that the Queensland bill is introduced and not the English? I notice that there are two English rings about this bill—those relating to parks and mansions. Such things do not exist in Australia.

THE HON. J. W. HACKETT: This is a bill which, it has often occurred to me, would be a good measure to introduce here, for it is a fact that this colony, with its limited population, has a larger quantity of land under settlement or entailed than any of the newer colonies of the group. The consequence is that large blocks of land in accessible positions remain as a reproach, and without profit to either the colony or the owners. I have glanced through the bill, and the favorable impression I was prepared to entertain of it, from knowing that it was taken almost word for word from the Queensland Bill, has been confirmed. That bill was drafted by the best draftsman in Australia, Sir Samuel Griffith, and it provides a means of unlocking lands which has been found to be so much required in these colonies. It looks after the interest of the tenant for life, while those entitled to the remainder, reversion, and residuary are most safely guarded. The more this bill is looked into the more, I am sure, it will commend itself to the House. Some amendments may occur to hon. members; but if the bill be carried out on anything approaching its present lines, it cannot but do good to the community, and especially to those who are burdened with settled estates.

THE HON. M. GRANT: I shall oppose this bill, because I do not think the time is ripe for us to assimilate our legislation with the Imperial legislation in this respect. There may be some persons who hold land in a dormant state, but the time is coming when there is going to be a struggle as to the way land is to be worked, and therefore a few years hence would be quite time enough for this bill. The change that is going on with regard to the improvement of land

will compel those who hold it in a dormant state now to utilise it without the aid of this bill, and, therefore, I shall oppose it.

THE HON. E. HAMERSLEY: I am in favor of this bill. I have as large an amount of entailed property as any one. Some years ago I wished to improve these properties and sought to raise money on them, but I could not do it. With such a bill as this I should have had no difficulty. I, however, found other means of raising the money and improved the property, which is now among the finest in the Eastern districts. Very few persons would have been able to raise money as I did, but this bill will enable those having only a life interest in property to improve it at once to the immense benefit of themselves, their successors and the colony generally.

THE HON. T. BURGESS: I have to record my approval of this bill. I know from my long experience that large estates are being allowed to remain idle for the reason already stated by hon. members, and it is desirable that a bill of this kind should be introduced. I have read it over, and I fail to see any objection to it. It appears to have been carefully drawn, and provides a mode by which idle estates may be improved and cultivated. In different parts of the colony there are valuable estates lying idle, owing to the fact that money cannot be raised upon them. This bill will obviate this difficulty, and I shall, therefore, have great pleasure in supporting it.

THE HON. E. T. HOOLEY: It is generally acknowledged that the great want of this colony is population, and the reason of it to a great extent is the inability of persons coming here to get suitable land adjacent to a railway. To my knowledge certain blocks of land have been locked up for the last fifty years, blocks which are adjacent to railways. The passing of this bill, however, will enable it to be cut up and to become settled. I shall therefore support the second reading.

THE HON. J. MORRISON: Without committing myself to the details of this bill, I must say it is one the Government are to be commended for bringing forward. The want of such a measure has worked an enormous injustice to tenants

for life, so that they have been able to do nothing with their estates, and it has also been an injustice to the colony. While new population was arriving and improving other properties these properties were standing idle. The early settlers, we know, took up a great deal of the best of the land. It has since fallen into other hands, and it has been allowed to remain unimproved on account of the title not being a good legal security. I have, therefore, much pleasure in supporting this bill.

THE HON. J. G. H. AMHERST: I merely rise to say that I think this a most important bill. My hon. friend Mr. Leake seems to be in a difficulty over the 20th section, which contains a reference to parks and mansions. He says there are no such things, but if he would come to the South with me I could show him several. There is Princep Park, and there are Henry Park, and Crawley Park, and many others. The Hon. Mr. Grant seems to think that the law of entail should come into force here; but, to my mind, the colony is not yet sufficiently old for that. After reading the bill, I can only say that it is one I shall support to the utmost of my power.

THE COLONIAL SECRETARY (Hon. G. Shenton): The Hon. Mr. Leake takes exception—

THE HON. G. W. LEAKE: Pardon me. I took no exception; I simply asked a question.

THE COLONIAL SECRETARY (Hon. G. Shenton): The reason the Government took the Queensland Act was as has been stated by the Hon. Mr. Hackett. We knew that the Queensland Act was drawn by Sir Samuel Griffith, who is one of the ablest draftsmen in the colonies, and he altered the English statute so as to meet the circumstances of Queensland at a time when that colony was in a similar position to that occupied by this colony at the present time. I am sure if hon. members look carefully through the bill they will find nothing to take exception to. The interests of those on whom the property eventually falls are well protected and carefully guarded, while at the same time the bill will tend to break up the large entailed estates. The Hon. Mr. Grant has said that at this stage of the colony's history we should not give these

powers to tenants for life; but in my opinion these large unimproved estates are a curse to the colony, and the sooner they are broken up the better. The law of entail is all very well in an old country like England, but here we know that large tracts of country were given away in the early days, and now the tenants for life can do nothing with them.

Question—put and passed.

SHARKS BAY PEARL SHELL FISHERY BILL.

On the Order of the Day for the consideration of this bill in committee,—

THE HON. J. W. HACKETT said he trusted the House would allow this matter to stand over. He had been looking over the bill and had consulted with some gentlemen from the North upon it, who thought it advisable that some amendments should be made. These amendments he was not prepared to put into shape at that moment, and therefore it would be a great convenience if this Order of the Day were postponed until the next sitting of the House.

THE COLONIAL SECRETARY (Hon. G. Shenton) said he had no objection to this course being adopted.

Order of the Day expunged and made an Order of the Day for the next sitting of the House.

GAME BILL.

On the Order of the Day for the adoption of the Committee's report on this bill,—

THE COLONIAL SECRETARY (Hon. G. Shenton) moved that the bill be recommitted.

Question—put and passed.

IN COMMITTEE.

Clause 6—"Penalty for destroying native game out of season, any game on a reserve, or strictly preserved":

THE COLONIAL SECRETARY (Hon. G. Shenton) moved, That the words "not licensed under the provisions of section seven of this Act" be inserted between the words "person" and "shall" in line 1.

Question—put and passed.

Clause 7—"Penalty on taking or destroying eggs":

THE COLONIAL SECRETARY (Hon. G. Shenton) moved, That all the words after "game," in the third line, be struck out, and the following inserted in lieu thereof:—"or if any person shall wilfully take out of the nest or destroy in the nest the eggs of any bird of native game for which a close season has been proclaimed, or shall knowingly have or permit or suffer to be in his house or possession any eggs of any such birds so taken after the passing of this Act, 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." He said that the reason that the Government proposed this clause was that their attention had been drawn to the fact that on Perth Water a bird called the shag was a great nuisance, not only on account of its destructive habits with regard to fish, but also to the owners of boats. It was now proposed to reserve power to the Colonial Secretary to issue licenses to persons for the destruction of this bird, or for the taking of its eggs.

THE HON. G. W. LEAKE: I would call the attention of the committee to the fact that the word "owner" is still left in all its exquisite vagueness. It has no meaning at all, and simply makes the Act unworkable.

THE HON. J. W. HACKETT: I would suggest that we report progress, so that we may see this new clause in print.

THE HON. G. W. LEAKE: Under this bill, as it now stands, a man may not have a clutch of eggs under a tame duck.

THE COLONIAL SECRETARY (Hon. G. Shenton): I move that progress be reported.

Question—put and passed.

FIRST OFFENDERS BILL.

This bill was considered in committee, and agreed to without amendment.

ADJOURNMENT.

The Council at 4 o'clock p.m. adjourned until Thursday, 14th January, at 8 o'clock p.m.

Legislative Assembly,

Tuesday, 12th January, 1892.

The Orient Company and Owen Anchorage—Delay in erection of Public School House at Roebourne—Municipal Institutions Act, 1876, Amendment Bill: third reading—Bills of Sale Act, 1879, Amendment Bill: recommittal—Supreme Court Act Amendment Bill: in committee—Affirmations Bill: in committee—Adjournment.

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

PRAYERS.

THE ORIENT COMPANY AND OWEN ANCHORAGE.

MR. TRAYLEN, pursuant to notice, asked the Premier what is the nature of the communication from the Orient Company with respect to Owen Anchorage, and how far it is binding upon the Company?

THE PREMIER (Hon. Sir J. Forrest) replied that there had been no definite communication in writing upon the subject, but the manager of the Company in Australia had verbally informed the Government that he intended to write to his Company, and to strongly recommend that Fremantle should be made a port of call so soon as facilities were afforded for prompt despatch.

DELAY IN ERECTION OF SCHOOL HOUSE AT ROEBOURNE.

MR. W. H. SHOLL: I beg to ask the Director of Public Works, When the Government intend to proceed with the erection of a Public School House at Roebourne? Also, why this necessary work has been so long delayed, the necessity for this building having long been recognised by the Government and the money voted for the purpose.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied that the Government intended to proceed with the erection of a Public School House at Roebourne when funds were provided for the purpose. A sum had been placed on the Estimates for 1892. The work had been delayed in consequence of the tenders having been beyond the sum at disposal for the purpose.