

the York route, and in the second place that the Government were already running a short spur line from Spencer's Brook to Northam at a loss; whereas, if it were part of the main line to the fields, there would be an immense saving in the cost. As to the railway itself, there is no doubt that until it is completed we shall never be able to properly develop the mines, owing to the great expense of transport of both necessities and machinery. I hope hon. members will agree to pass this bill at once, so that the Government may get on with the permanent surveys.

Question—put and passed.

**THE COLONIAL SECRETARY** (Hon. G. Shenton): I now move that the Standing Orders be suspended, so that the bill may pass through its remaining stages. This is the first time this session that I have asked the House to grant me this, except as to the Supply Bill; and I only ask it now because the survey parties are waiting to get on with the work, and nothing can be done until this bill is passed.

**THE HON. J. W. HACKETT**: I second this motion with pleasure. I believe there are three survey parties waiting to commence work, and if this bill is passed at once it will save a large amount of money.

Question—put and passed.

The bill was then taken through its remaining stages and *passed*, without amendment.

#### ADJOURNMENT.

The Council, at 3.45 p.m., adjourned until Wednesday, 27th January, at 8 p.m.

## Legislative Assembly,

Friday, 22nd January, 1892.

Geraldton-Mullewa Railway Bill: third reading—Police Bill: re-committed—Bankruptcy Bill: in committee—Adjournment.

**THE SPEAKER** took the chair at 2.30 p.m.

#### PRAYERS.

#### GERALDTON-MULLEWA RAILWAY BILL.

Read a third time, and transmitted to the Legislative Council.

#### POLICE BILL.

On the Order of the Day for the consideration of the Committee's report,

**THE ATTORNEY GENERAL** (Hon. S. Burt) moved that the report be adopted.

Agreed to.

Clause 96 (reverted to)—Travelling live stock through town streets at certain hours:

**THE ATTORNEY GENERAL** (Hon. S. Burt) said it would be remembered, that considerable discussion took place on this clause in committee—(*vide p. 347, ante*)—objection being taken to the prohibition against sheep being driven through the streets except at certain hours, between 10 at night and 8 in the morning. He now moved that all the words after "morning" be struck out, and the following words be inserted in lieu thereof—"And the local authority is hereby empowered to define, by notice to be published in the *Government Gazette*, the route by which any horses, cattle and sheep, with the exception as aforesaid, shall be driven, and after such publication no cattle, horses, or sheep shall be driven by any other route." The effect of that would be to enable sheep being driven through a town at any time of the day, but only by a route to be defined by the municipal or other local authority.

Amendment put and passed.

Clause, as amended, agreed to.

Bill reported.

## BANKRUPTCY BILL.

## IN COMMITTEE.

The House went into committee for the consideration of this bill, which had been referred to a select committee.

Clauses 1 to 38:

Put and passed, without discussion.

Clause 39—Preferential claim in case of apprenticeship:

THE ATTORNEY GENERAL (Hon. S. Burt), without comment, moved some verbal amendments in the clause, as recommended by the select committee. (*Vide p. 101 "Votes and Proceedings."*)

Amendments put and passed, and clause, as amended, agreed to.

Clause 40—Power to landlord to distrain for rent:

MR. SIMPSON objected to a landlord being given power to distrain for rent due for a period of six months anterior to the date of bankruptcy. He failed to see why a landlord in this respect should be placed in a superior position to the bankrupt's butcher or baker, or any other creditor. He thought he should come in exactly the same as any tradesman or other party claiming under the bankruptcy.

THE ATTORNEY GENERAL (Hon. S. Burt) said this was a provision that obtained in all Bankruptcy Acts, and generally it was available for twelve months, this power to distress for rent. It was reduced here to six months. The rights of landlords to distrain for rent due had always taken precedence in bankruptcy.

MR. SIMPSON: Why?

THE ATTORNEY GENERAL (Hon. S. Burt): Because it was done in all other cases, outside the bankruptcy law. From time immemorial landlords had held this position. In our present Bankruptcy Act we allowed a landlord power to distrain up to twelve months, but now the hon. member proposed to wipe out this power altogether, which would be to upset principles that had obtained for the last 100 years. He thought if we reduced the time to six months, the hon. member would not press his suggestion.

Clause put and passed.

Clauses 41 to 45:

Put and passed without discussion.

Clause 46—Avoidance of preferences in certain cases;

MR. SYMON, without comment, moved to strike out the words "at the time of the execution of such bill of sale," and to insert the words "or the actual money value of goods sold and delivered by the grantee to the grantor at the time of giving such bill of sale."

Amendment put and passed.

THE ATTORNEY GENERAL (Hon. S. Burt) moved to insert, after the words "personal chattels," the words "for the purposes of this sub-section." There were other purposes in the Act.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 47 to 62:

Put and passed *sub silentio*.

Clause 63—Appointment (by Chief Justice) of official receivers:

THE ATTORNEY GENERAL (Hon. S. Burt) moved, without comment, to strike out "Chief Justice," and insert "Governor in Council," as recommended by the select committee; and also to strike out the words "with the approval of the Treasurer."

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 64 to 67:

Put and passed, without discussion.

Clause 68—Power for Chief Justice to appoint officers:

THE ATTORNEY GENERAL (Hon. S. Burt), without comment, moved to substitute "Governor in Council" for "Chief Justice," as recommended by the select committee; also to strike out the words "with the approval of the Treasurer."

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 69 and 70:

Put and passed, *sub silentio*.

Clause 71—Trustee to pay all moneys received by him into such Bank as he deems fit:

THE ATTORNEY GENERAL (Hon. S. Burt) said it would be seen that the money was to be paid by the trustee into such bank as the majority of the creditors appointed, and, failing such appointment, into such bank "as he deems fit." The Select Committee proposed to substitute for the words "as he deems fit," the words "the official receiver may approve." He moved an amendment to that effect.

Amendment put and passed.

THE ATTORNEY GENERAL (Hon. S. Burt) also moved, in accordance with the recommendation of the Select Committee, to add at the end of the clause the following sub-section: "The official receiver shall be entitled, from time to time to demand from the manager of any bank or branch bank where the trustee's account may be kept, a copy of such account; and any such manager neglecting to furnish such copy within three days after such demand shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the official receiver."

MR. MOLLOY objected to the proposed new sub-section, as offensively peremptory. He did not think they would get many bank managers who would allow an account to be opened at their banks by any trustee, under these conditions. Why should they call upon a bank manager to bother himself to make out a trustee's account at any moment, when the pass book would show the state of the account? According to this clause, if a bank manager neglected to furnish a copy of the account when requested by the official receiver he was to be adjudged guilty of a contempt of court, and be punishable on the application of the official receiver. He did not think they would find many banks who would be troubled with these accounts, under such conditions. He thought there would be quite sufficient protection for the safe-keeping of the accounts in the fact of the official receiver being entitled at any time to have the pass-book.

MR. CANNING thought any manager of a bank would furnish a copy of an account if asked to do so by the trustee or the official receiver. He would simply have to direct one of the clerks to make out the account. If a manager declined to do so, it would be very easy to remove the account to some other bank. But it certainly did seem a rather harsh proceeding that, if a manager neglected to do this, he should be brought up and punished for contempt of court.

The new sub-section was then put and passed.

Clause, as amended, agreed to.

Clauses 72 to 146:

Put and passed, without discussion.

#### *Schedules:*

First Schedule—(Meeting of Creditors):

THE ATTORNEY GENERAL (Hon. S. Burt), without comment, moved some verbal alterations, upon the recommendation of the select committee. (*Vide p. 102, "Votes and Proceedings."*)

Amendments—put and passed.

Schedule, as amended, agreed to.

Second Schedule—(Proof of Debts):

THE ATTORNEY GENERAL (Hon. S. Burt), pursuant to the Select Committee's recommendation, moved an amendment in paragraph 12, sub-section (c), to substitute "three months" for "six months" as the period within which a trustee may exercise his power of redeeming or realising upon a security.

MR. CANNING said he felt bound to oppose this amendment. He thought three months was too short a time within which to call upon a trustee to exercise this power. Supposing the security was a mortgage, for a term of (say) three years, of which one year had expired; here the mortgagee would have a right, as a creditor, to call upon the trustee to elect, within three months (contrary to usage), what he would do as regards the mortgage, whether he would redeem it or realise upon it, or what. Or, assuming that the term of the mortgage had expired, and that, in accordance with usage, it was running on from six months to six months, under all ordinary circumstances the mortgagee would have no right to call it up for a period of six months. Why should a trustee be required to do so within three months? Six months would afford a trustee time to make such arrangements as he might desire. It might be to the disadvantage of the estate that the security should be called up within three months; the conditions of the market might change materially for the better within six months,—more so than within three months. Moreover, it might be desirable that the trustee should communicate with the other colonies or England, with the view of realising the security to the best advantage. He was at a loss to understand why, in a bankruptcy estate, a provision should be made which would practically set aside the universal usage, certainly in this colony, with regard to securities; and he must certainly oppose the amendment.

THE ATTORNEY GENERAL (Hon. S. Burt) said this point was very much argued in select committee, and, personally, he objected at the time to reducing the period from six months to three, but the voice of the committee seemed to be largely in favor of reducing it to three. After all, he did not think it was of very much importance, as most securities here were payable on demand. The alteration was made in select committee, and this was the committee's report.

Amendment—put and passed.

Schedule, as amended, agreed to.

Preamble and Title:

Agreed to.

Bill reported with amendments.

#### ADJOURNMENT.

The House adjourned at 3:50 p.m. until Wednesday, January 27th.

### Legislative Council,

Wednesday, 27th January, 1892.

Death of the Duke of Clarence and Avondale: message from the Administrator—Sharks Bay Pearl Shell Fishery Bill: third reading—Bills of Sale Act Amendment Bill: third reading—Geraldton-Mullewa Railway Bill: second reading—Adjournment.

THE PRESIDENT (Sir T. Cockburn-Campbell, Bart.) took the chair at 8 o'clock.

#### PRAYERS.

#### DEATH OF THE DUKE OF CLARENCE AND AVONDALE.

THE PRESIDENT: I have to inform the Council that I have received a communication from His Excellency the Administrator, informing me that the Address of Condolence to Her Majesty the Queen, adopted by the Council on the occasion of the death of the Duke of Clarence and Avondale, has been transmitted by cablegram to the Secretary of State for the Colonies.

#### SHARKS BAY PEARL SHELL FISHERY BILL.

This bill was read a third time, and passed.

#### BILLS OF SALE ACT AMENDMENT BILL.

This bill was read a third time, and passed.

#### GERALDTON-MULLEWA RAILWAY BILL.

##### SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Shenton): I have now to move the second reading of this bill. Hon. members are aware that this is one of the works included in the Schedule to the Loan Act of last session, and since the passing of that Act the necessity for constructing the line has become more important than ever, owing to the great discoveries of gold that have taken place on the Murchison—a discovery, I feel sure, that will tend greatly to develop the latent resources of that portion of Western Australia. It is of immense importance that we should get on with the construction of this line as soon as possible. I have already laid on the table a plan showing the base line of the railway, and by clause 3 of the bill the Commissioner is given power to deviate from that to the extent of five miles on either side. The final surveys are not yet made, but as soon as the bill passes they will be taken in hand. The line will commence at a point on the Geraldton to Greenough Railway, 6 miles and 75 chains, or thereby, from its commencing point on the Geraldton to Northampton Railway, and proceeding thence in an east-north-easterly direction for a distance of 60 miles or thereabouts; and terminating at or near Mullewa Spring. This railway will get over the great difficulty which now exists in conveying material to Mullewa and the Upper Murchison. It will bridge over what is known as the sand plain, on the other side of which, I believe, there is a good road right up to the fields. I trust hon. members will agree to the second reading of the bill this evening so that the Government may get on with the final surveys as soon as possible.