

have never seen in any Act of Parliament.

The Premier: All this is covered by the Interpretation Act.

The Minister for Lands: It is superfluous to put these subclauses in, because the Interpretation Act outlines what shall be done.

Amendment passed; the clause as amended agreed to

Schedules 1, 2—agreed to.

Schedule 3:

Mr. S. STUBBS: This schedule is the outcome of some suggestions made by the Chamber of Commerce, but I do not see any provision there for assisting persons who have stood by farmers for years. Would it not be as well to include them?

The Minister for Lands: We are paying the storekeeper.

The Premier: Have you no security?

Mr. S. STUBBS: Yes, a second mortgage.

The Premier: Then you come under Clause 3.

Mr. S. STUBBS: I certainly think they should be put in a position higher than seventh on the list.

The MINISTER FOR LANDS: The schedule is drafted to protect those men. It is not provided that all down to No. 6 shall get everything they are entitled to. They are to get a proportion only.

Mr. S. Stubbs: Why not put the storekeeper on the same footing as the machinery merchant?

The MINISTER FOR LANDS: Because we are paying cash to the storekeeper and saying to the machinery man, "You leave the machinery on the farm and allow us to use it in taking off the crop." It is only fair that we should then say to him, "We will give you some little payment in regard to the machinery." The schedule limits everyone else to a proportion of what he is entitled to. It is protecting the storekeeper by limiting the amounts the others are to get.

Schedule put and passed.

Title—agreed to.

Bill reported with amendments.

*House adjourned at 10.45 p.m.*

## Legislative Council,

*Tuesday, 19th January, 1915.*

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

### PAPER—ESPERANCE DISTRICT MAP.

In laying on the Table a map of the Esperance district, the COLONIAL SECRETARY said: It will no doubt be interesting to hon. members to ascertain from this map the extent of the area from which the Registrar General obtains his returns. Various hon. members have commented on the point during the last few sittings of the House.

### PAPERS PRESENTED.

By the Colonial Secretary: 1, Map of Esperance district. 2, Water Supply, Sewerage, and Drainage Department, amendment of by-laws. 3, Timber tramway permit issued to Sons of Gwalia Mine, Limited. 4, Workers' Homes Acts 1913 and 1914, regulations.

### MOTION—WHALING LICENSE, TO DISALLOW.

Hon. A. G. JENKINS (Metropolitan) [4.37]: I move—

*That the lease from the Government to the "Aktieselskabet Australia" be disallowed.*

I take this action on three grounds. The first ground is that the license has been granted to the company without proper consideration, and that if it was intended to grant such a license it should have

been open to public competition. My second ground is that the rights of existing whaling companies have been entirely overlooked; and my third, that if it was proposed to grant a lease, that lease should have been granted to Mr. C. Stang, who holds a definite promise from the Minister to issue the license to him. Before proceeding I may remark that my second and third grounds possibly appear somewhat contradictory. However, it becomes necessary to go fully into the whole question and bring under the notice of the House the somewhat extraordinary circumstances attending the issue of the license to the Aktieselskabet Australia. In connection with my first ground of objection, I wish to read to the House certain extracts from the reports of Mr. Aldrich, the Chief Inspector of Fisheries, as to the issue of a license for what has been up to the 29th October last a closed area as regards whaling. Mr. Aldrich has entered into the question very fully from the earliest times, and his reports are highly interesting. It is a matter for regret that the full files are not on the Table of this House, so that hon. members could more easily refer to them. Unfortunately, however, as the files were previously laid on the Table of the Legislative Assembly in pursuance of a promise given by the Premier, members of this Chamber will not have the opportunity of perusing the files as closely as they might otherwise wish to do. I have, however, had extracts made from the files; and these extracts furnish the best information that I could lay before hon. members of this Chamber in the absence of the files themselves. Whaling licenses, I may remark, are issued in pursuance of a Fisheries Amendment Act passed in the year 1911, which permits exclusive licenses to be granted to companies desirous of carrying on the business of whaling on the North-West coast of this State. Up to the period I have mentioned, 1911, there had been for a good many years practically no whaling carried on along our coasts. From inquiries made it was thought that these

coasts would prove a profitable field for whaling; and consequently certain Norwegian companies interested themselves in the matter through the then consul for Norway, Mr. R. S. Haynes, K.C.; and, in consequence of the facts that were placed before the Minister at the time, the measure I refer to was introduced. Originally, three separate licenses were granted to three different Norwegian companies. When the matter first came up in 1911, Mr. Aldrich reported as follows:—

I have given the application for an exclusive license submitted by Mr. R. S. Haynes on behalf of Mr. C. Stang, of Norway, careful thought. I also notice your minute immediately hereunder. The length of area of water embraced in this application is practically 1,000 miles—almost twice the extent of that covered by previous applications on behalf of the West Australian Whaling Company, the papers of which now lie on the Table of the House. The annual rental offered by the company is £250.

I need not read the rest of that paragraph. The important part is paragraph 4.

Whilst I have every desire to encourage whale fishing in the coastal waters of Western Australia, and, further than that, favour the operations being carried on under the terms of an exclusive license, I do not at the present time feel disposed to recommend the granting of this or any other exclusive license for the exceedingly large and practically unknown area embraced in this application, until steps have been taken to ascertain its possibilities and value as a whale fishery.

Paragraph 5 I need not read. Paragraph 6 states—

As previously stated, I cannot at the present time recommend the granting of this exclusive license; but should this concern be desirous of going further into the matter at a later date I would be pleased again to review the position.

Those are the important parts of Mr. Aldrich's first report on the matter when an exclusive license was first applied for over what were then closed areas, and what were, up to the time of the granting of the lease to the present company under the lease instrument now lying on the Table of the House, closed waters. Subsequently the application was renewed, and Mr. Aldrich on the 29th April, 1912, submitted the following report to the Minister:—

The application referred to in Mr. Stang's letter is dated 13th December, 1911, and was submitted by Mr. R. S. Haynes, K.C., consul for Norway, on behalf of Mr. C. Stang, of Christiania. 2. In a minute dated the 16th December, 1911, I pointed out that though I had every desire to encourage whale fishing in the coastal waters of Western Australia, I did not feel disposed to recommend the granting of this exclusive license, covering, as it does, a practically unknown area, until steps had been taken to ascertain its possibilities and value as a whale fishing centre. 3. In a letter dated 22nd January, 1912, Mr. Haynes was informed that at the present juncture the application could not be favourably received, but, should the application be renewed at a later date, it would be reconsidered. 4. On the 23rd Mr. Haynes wrote and asked that Mr. A. Stang, of Perth, be informed when the department was prepared to proceed in the matter, and a few days later I personally informed Mr. Stang that he would be notified when sufficient information was to hand to enable me to make a recommendation.

Paragraph 5 is one of the most important parts of the report. It reads—

Although some months have since elapsed, and a certain amount of information has been obtained, there is still much wanting, and I do not yet feel justified in making a recommendation in favour of granting an exclusive whaling license covering all or part of this particular area. On the other hand the more I have studied the question the more convinced have I become that

any hasty action in this direction is unwarranted. In explanation, I must, at the risk of taking up your time by the perusal of a lengthy minute, state it is recognised that the migration of fish is generally associated with the provision for the next generation. This may be called periodic migration. A second form, which we may call sporadic migration, is noticeable, but is generally brought about by abnormal circumstances. Although cetaceans—whales, etc.—should not be confused with fish, it is a recognised fact that annually, during practically identical months in successive years, numbers of whales are found on the west or north-west coast, travelling first in a northerly direction and later, after an absence of a month or two, returning in a southerly direction. Although I am not at present in a position to definitely state that this northerly migration is associated with the breeding season—a desire to reach a suitable known locality as a breeding ground—in the absence of proof to the contrary I cannot say it is not.

Incidentally, I may say I am satisfied from a perusal of the files, that Mr. Aldrich, able officer as he undoubtedly is, is entirely ignorant to this day as to whether this area is, or is not, a breeding ground for whales.

Hon. W. Kingsmill: So is everybody else.

Hon. A. G. JENKINS: These Norwegian companies have furnished to the department certain information as to the breeding ground of the whales. Mr. Aldrich here reports that he does not know where the breeding ground is. Later on he to some extent alters his opinion, although he has not, I think, the slightest ground for that alteration of opinion. I do not say this with a view to urging anything against Mr. Aldrich but neither he nor any officer of the Fisheries Department has any information as to the probable breeding ground of those whales. The report continues—

If it is the case, then in all probability these grounds lie somewhere in the waters of our north-west coast, and I

certainly consider that more definite information should be obtained before any further whaling licenses are granted over these particular waters.

That information has never been obtained to this day. Mr. Aldrich continues—

Under these circumstances I would recommend, etc. . . . . In the meantime I hope to be able to go much farther into this highly interesting and perhaps very important question.

That is dated the 29th April, 1912. The next report from Mr. Aldrich appears to have been written on the 16th November, 1912, when this application again came before him. The report is as follows:—

The advisableness of granting a license to take whales from all or part of the waters extending from Cape Lambert to the north-eastern boundary of the State is, in my opinion, a matter needing a considerable amount of consideration. I have already pointed out that it is highly probable that in this particular area a breeding ground for these cetaceans is situated. Inquiries made go to support the views I have previously expressed, but in this as in many other matters pertaining to fisheries one can only arrive at a conclusion after a close inquiry extending over a considerable period of time. Until this particular question, one likely to have an important bearing upon the future of the whaling industry in our waters, has been finally solved, I am not prepared to recommend the granting of a license covering the waters referred to, but at the same time I consider it only reasonable that, should it eventually be determined to grant such a license, Mr. Stang's application should be given priority.

That is on the 16th November, 1912. The next report we have from Mr. Aldrich is dated the 3rd November, 1914. It is in a minute addressed to the Colonial Secretary in view of the application, the subject of the present lease. The report is as follows:—

Please see hereunder application lodged by Capt. H. B. Andresen, representing the Australia Whaling Co.,

Ltd., of Tonsberg, Norway, for a license to take whales from the coastal waters of this State lying between Cape Lambert (the eastern boundary of the area held under exclusive license by the West Australia Whaling Co., Ltd.) and the 120th meridian; that is a point on the coast line approximately 200 miles eastward of Cape Lambert . . . . .

You will remember that since 1911 inquiries have been made by different firms on behalf of the Norwegian companies for whaling licenses, one application lodged by Mr. R. S. Haynes, then consul for Norway in this State, on behalf of Mr. C. Stang, of Christiania, Norway, being for a license covering all the coastal waters extending from Cape Lambert to the North-Eastern boundary of the State. In dealing with this application I pointed out that I did not at that time feel disposed to ascertain its possibilities and value as any other whaling license over this exceptionally large and practically unknown area until steps had been taken to ascertain its possibilities and value as a whale fishery, and Mr. Haynes was informed that it was regretted that the application at that juncture could not be favourably received. On the 19th April, 1912, Mr. A. Stang, then consul for Norway, wrote and asked if the department was then prepared to deal with the matter. In a letter dated the 6th May, he (Mr. Stang) was informed that the Hon. Minister was not prepared, until the result of certain inquiries then being made were known, to further consider the application, and it was suggested that Mr. Stang again communicate during the following September. On the 8th November, Mr. Stang wrote, and on the 25th November was advised by letter that the Government was not at that time prepared to deal with the matter, but if at any time it was intended to throw open the area the priority of Mr. Stang's application would be borne in mind. Although the application now under review covers only approximately 200 miles, it certainly embraces that extent of the southern portion of the area

applied for by Mr. Haynes. When dealing with Mr. Haynes' application I pointed out that, in my opinion, it was highly probable that in the waters situated off our north-west coast certain breeding grounds for whales were situated. I still hold this opinion, but am prepared to admit that I think they are further north, and outside the area mentioned in Captain Andresen's application.

In regard to that expression of opinion by Mr. Aldrich, the files disclose absolutely no information as to the basis for his new belief that the breeding grounds exist further north than the area proposed to be granted. On the contrary, the files disclose the fact that these Norwegian companies, in consequence of inquiries made, informed the department long before Captain Andresen's application was heard of that the breeding ground of the whales did exist within this identical locality, the subject matter of the present lease. The files show no reason whatever for Mr. Aldrich's change of opinion, and it will be interesting if the Minister informs the House of the reason for that change. At the same time, a perusal of the file shows that since 1911 Mr. Haynes, and later Mr. Stang, have been negotiating to secure a license over waters in that vicinity, and consideration of that application has been delayed on certain grounds. The report continues—

In view of the letters addressed to Mr. Stang dated 6th May and 25th November, 1912. I think that before another and more recent application is dealt with, Mr. Stang should be asked if, in the event of the Government deciding to throw open to whaling portion of the waters north of Cape Lambert, he is still anxious to proceed with the application on behalf of Mr. Stang.

That is the position in regard to Mr. Aldrich's report as to the probability of this ground being a breeding ground for whales. After all, that is one of the most important questions to consider in granting this license, because to grant a license over a ground that may be a breeding ground for whales means the absolute

destruction of the industry within a couple of years, for one has only to go to the breeding ground of any animals, disturb them for a year or two, and they find another place, some other waters in which to breed, and the whole of the whaling industry, which means thousands of pounds to this State every year, will be lost to us, and the vessels will have to go somewhere else. Mr. Aldrich writes another report dated 12th November, 1914—that is after the Minister had decided to grant this lease to the present company. The report is as follows:—

I am not aware that the coastal waters extending from Cape Lambert to the north-eastern boundary of the State are about to be opened for whaling, and I have not seen any recent application for a license covering the whole of that particular area. Recently an application for a license to take whales from coastal waters extending from Cape Lambert to the 120th meridian, approximately 200 miles of area referred to above, was submitted by Capt. Andresen on behalf of the Australia Whaling Co., Ltd., of Tonsberg, Norway. This application was approved by the Hon. Minister. I take it the letters referred to by Mr. Stang—

This was a letter protesting against the granting of the lease. The report continues—

are those, copies of which appear on pages 19 and 23 hereunder. Although I drew attention to these letters when dealing with Capt. Andersen's application referred to above, I regret to say that I overlooked another and earlier letter which appears to have been addressed to Mr. Haynes, K.C., then Consul for Norway, on the matter. I have no knowledge of what occurred at the interview which Mr. Stang states took place between the Minister, Mr. Swan, and himself. As stated above, the coastal waters extending from Cape Lambert to the north-eastern boundary of the State have not been opened to whaling. Approval has been given to the granting of a license covering portion of it. Mr. Stang's application covers all of

it, but you will notice in the last paragraph that if at a later date he was desirous of applying for a license covering portion of the area, such application would be reconsidered.

Evidently Mr. Aldrich was desirous of doing the right thing there, believing that others, besides the present company, should have been considered if the area was to be opened, and I presume that it should be opened to public tenders so that every person would have an opportunity of going in for it. A perusal of these reports of Mr. Aldrich will show that these areas have remained closed since 1911. They were not open to any person to take whales from. In fact the applications had been refused. We will see what occurs in the month of October. As late as the 9th October Mr. Stang, the Consul for Norway, who is the attorney for three whaling companies carrying on business here, interviewed the Minister in company with Mr. Swan, who was then a member in the Legislative Assembly for North Perth. He interviewed them in consequence of a trouble which had arisen between the companies and the department in regard to the reading of the agreement. I will refer to that later on. It is sufficient, however, to say that the department said that the agreement meant one thing while the company said that it meant another, and the company, in order that there should be no friction, waived any legal rights they might have and consented to sign a new agreement. Mr. Stang at the interview on the 9th October asked the Colonial Secretary (Hon. J. M. Drew) this question: "Are these waters north of our area to be opened?" and the Minister replied, "They are to remain closed." In respect of that, I have a letter, a copy of which also appears on the file and is dated the 16th November. It is addressed to the Consul for Norway and has been forwarded to me. It is as follows—

Dear Sir,—On the 9th October last, I accompanied you to the Hon. the Colonial Secretary's Office, and was present at the interview which there

took place between you and the Colonial Secretary. During that interview the Minister was seeking to obtain your consent to the introduction of new terms in the License granted by the Government to your Company.

Before consenting, I distinctly remember you asking the Minister whether it was proposed to throw open the Northern area of the coast for whaling, and he replied that the Government had no intention of doing so, and you thereupon stated that you would agree to the terms suggested by the Minister.—Yours truly, (Signed) H. G. Swan.

Hon. R. J. Lynn: Who is that signed by?

Hon. A. G. JENKINS: By Mr. Swan. That interview took place on the 9th October last. A little before then an application was made by this company for the forfeiture of certain other company's rights on the grounds that the conditions of the licenses had not been complied with. The Minister, however, refused to grant the application. The Minister in fact, was unable to grant the application for the companies were strictly within their legal rights. The companies had agreed to the execution of a fresh agreement so that there should be no possibility of a difficulty in the future between themselves and the Government. On the 29th October this application was put in to Mr. Aldrich, the Chief Inspector of Fisheries and it reads as follows:

Dear Sir,—Representing the Australia Whaling Coy., Ltd., of Tonsberg, Norway, I hereby respectfully apply for a license in West Australia from Cape Lambert East to the 120th meridian of longitude on behalf of the said company, viz.:—1. To be allowed to anchor their factory ship in a suitable place in that area, and to carry out whaling operations. 2. To be allowed to establish ashore a plant for manufacturing fertilisers from the offal of whales. 3. To catch whales within the abovementioned area. The Australia Whaling Coy. was formed and registered in Tonsberg, Norway,

1911, with a capital of 1,000,000 kromers (about £60,000 sterling) and possess one factory ship and three modern steam whalers or hunters, employing about 120 men. The factory ship is a steam vessel of about 8,000 tons dead weight capacity, fitted with 30 boilers and digestors for extracting oil from whales, and one drying plant for making whale meat meal and bone dust from the offal, but that plant cannot very well be worked on board a ship. The Vice-Consul for Norway, viz., Mr. William Bower Fallowfield, Geraldton, has been appointed as the Company's agent, and has been given power of attorney to deal with all matters concerning this Company. The license to be granted in his name on behalf of the Australia Whaling Company, Ltd. I have the honour to be, Sir, Your obedient servant, (Sgd.) Carl H. Bjerke Andresen.

That application was received for those waters which had been closed since the year 1911. On the 3rd November Mr. Aldrich made that report that I have already read to the House as to the probability of this place being a breeding ground for whales. On the 5th November the Minister recommended the lease to this singularly fortunate company. At that time there had been no discussion (reference to the file will show this) on the application of Mr. Andresen as to the rent to be paid for the concession. On the same date the Under-Secretary writes a minute "that prompt action has to be taken to give effect to the Minister's decision." These facts now exist, namely, that the area was closed for three years; that on the 9th October the gentleman representing the three companies at present whaling was told that the waters were to remain closed; that on the 29th October an outside company comes in and applies for a license for a portion of the closed area, and that on the 5th November this license is granted, whilst on the same day an urgent minute goes forward that it is to be expedited in every manner possible. I say that certainly this House is entitled

to some explanation as to why this company should be so favourably treated.

Hon. W. Kingsmill: Which company?

Hon. A. G. JENKINS: This company that is getting the new license which it applied for. What I say is that if this closed area was to have been thrown open it should have been thrown open to the person who was prepared to pay the best price for it. If, after having been closed all these years it was the intention of the Government to throw this area open, the fact should have been publicly notified so that everyone would have had an opportunity of coming in and saying what they were prepared to give for the right to take whales over the area and so that the Government could see what were the best terms they could get. But to practically grant an exclusive license in closed waters to a company four days after it had made application does not seem to me to be the right thing. The original leases to these three companies took several months to go through, whereas this particular lease was granted in four days' time. It is an old axiom, I think, and a pretty true one, if you are going to give judgment, to give it and avoid giving reasons. The Minister, in order to support the granting of these licenses, prepared a minute for Cabinet and gave certain reasons why he decided to recommend the license. It is very interesting to read this minute and see the reasons why the Minister decided to give this fortunate company the license. Doubtless members will have read the minute. It appeared in the *West Australian* of Friday last under the heading of "Plain Speaking." In this article the Minister and Mr. Holman had carried on a rather animated correspondence. I have no doubt they also read the minute that Mr. Drew wrote to Cabinet. Mr. Drew says—

The Hon. the Premier (in Cabinet), —It is necessary, in order that the matter may be clearly understood, that I should begin at the beginning. Early in 1912, exclusive whaling licenses were granted to three Norwegian companies, namely, West Australia Whal-

ing Co., Fremantle Whaling Co., and Spermacet Whaling Company. Mr.

Aug. Stang, the Norwegian Consul, was attorney for those companies. One of the conditions attaching to the holding of the licenses was that each company should, within 15 months from 1st January, 1913, erect a shore factory at a cost of not less than £5,000 for the treatment of the carcasses of whales and the conversion of the by-products into fertilisers.

I have looked through the agreement but have been unable to find that. Perhaps the Minister, when he replies to my remarks, will tell me whether there is anything about the shore factory in those licenses. Mr. Drew proceeds—

Without much delay the companies started catching whales.

That is not correct either. It is only a small point, perhaps. One of these companies did entirely exploratory work for practically the first 18 months of their concession, but the other two companies did start to catch whales and to treat them in their factory, which the Norwegians call their ship where they treat the whales.

Hon. W. Kingsmill: Are these companies connected?

Hon. A. G. JENKINS: No, there are different shareholders and different directors.

The Colonial Secretary: Not at all.

Hon. A. G. JENKINS: I think that Christian Neilson & Co. are the legal managers for the three companies in Norway, and are practically the largest legal managers for companies in Norway. They have the legal management of these companies in the same way as they have the legal management of whaling businesses of other companies in other parts of the world.

Hon. W. Kingsmill: A sort of Norwegian Bewick, Moreing, & Co.

Hon. A. G. JENKINS: They do nothing except manage some of the small affairs of the companies. Beyond that they have nothing to do with the direction of the companies. It is an incorrect statement of the Minister that he made

in his minute to Cabinet. The minute proceeds—

Some weeks ago, Captain Andresen, representing the Australia Whaling Company, which had been engaged in whaling off the New South Wales coast, waited on me accompanied by Mr. Fallowfield, the Vice-Consul for Norway at Geraldton, and asked permission to peruse the agreements made between the Government and the companies named. I granted the request. After reading the agreement, Captain Andresen and Mr. Fallowfield informed me that the conditions of contract had not been complied with in regard to the Fremantle Whaling Coy.'s license—that although 21 months had elapsed, no shore factory had been erected, nor were the carcasses of whales being treated for the production of fertiliser.

That was not necessary under the agreement, there is nothing in the agreement to show that this should be done. I challenge the Colonial Secretary to show me anything in the agreement which can be construed into an arrangement that the companies should do this. The minute proceeds—

They asked whether I would be prepared to forfeit the license. I promised to go into the matter and did so. I found that the Fremantle Whaling Company had not carried out its agreement; but Mr. Stang contended that the company had had some difficulty in locating a suitable site for a shore factory. I found also that the agreement was badly drawn, and, by its interpretation, gave the company the option of using a factory ship instead of a shore station, contrary to all intention. It was definite enough, however, in my opinion, that the company was obliged to treat the whole carcasses of whales—which they had not been doing, although the time permitted them had expired by six months.

I say there is nothing in the agreement at all to show that the company should treat the whole carcasses of whales. That statement is absolutely incorrect. The agreements are there to say so. The company having established one shore



factory will treat the whole of the carcasses of whales because that is profitable; but if the Minister says they must do it he must have misread it. To show that that is so, the company agreed to the alteration in the terms of the agreement to make them treat the whole of the carcasses of whales without any legal obligation to do so—

The Colonial Secretary: Why did they put up a substantial deposit?

Hon. A. G. JENKINS: To oblige you. Can the Minister show to the House one clause under which it is declared that they have to treat whales in the way he says they must do? If the Minister can, then that will be the best answer to my remark. The Minister says—

I notified the attorney for the Fremantle Whaling Company that I would be prepared to give them: (a) Six months' extension of time to carry out the conditions in the license, if he would sign a supplementary agreement to erect a shore factory at a cost of not less than £5,000 within that period, and making the term "treatment of whales" more specific, so as to include the manufacture of guano and other fertilisers; or (b) twelve months' extension of time if he would sign a supplementary agreement as aforesaid and deposit £500 with the Colonial Treasurer as a guarantee that the agreement would be observed. The attorney, Mr. Stang, submitted to these conditions, provided the monetary security was to the satisfaction of the Crown Law Department, and signed the agreement. Let me show members what the department thought of that. On the 21st October the Minister wrote thanking the company for what they had done. He never had, he said, at any time, a doubt as to their bona-fides, and their dealings with the Government had been most satisfactory. Mr. North, the Under Secretary, appended a minute to the file to the effect that the company should certainly be congratulated on agreeing to do this and not taking advantage of their legal position. I think that disposes of the question about the bona fides of the company. To show that the Minister did not

appear to insist on these conditions and could not have insisted on them, the attorney for the companies had to get a fresh power of attorney from Norway to execute these agreements, because the original power of attorney granted to him under his first exclusive license did not give to him that power. The Minister goes on—

Meanwhile, I was bombarded with telegrams and letters from Mr. Fallowfield, at Geraldton, who is acting for the Australia Whaling Company, insisting on the cancellation of the Fremantle Whaling Company's license, and even threatening to bring the matter before Parliament. To none of these demands or threats did I give the slightest heed, as it seemed to me the course requested would be too drastic, and that the interests of the State would be protected if I adopted measures to ensure the carrying out of the agreement as originally understood. Unsuccessful in their attempts to secure a cancellation, Mr. Fallowfield approached me with a request to grant portion of the waters north of Cape Lambert to the Australia Whaling Company. I told him, as I had told Mr. Stang and Mr. Swan some days before, that the area was closed as a breeding ground for whales. Mr. Fallowfield stated that from what he could learn it was not the intention of the Fisheries Department to keep all this area closed.

It would be interesting for the Minister to tell us from whom Mr. Fallowfield got the information. He could not have got it from Mr. Aldrich or from the Minister and I hope when he is replying he will tell the House where this gentleman got the information, which was not in the possession of the Fisheries Department. The Minister goes on—

I then made an appointment with Captain Andresen. Mr. Fallowfield, and the Chief Inspector of Fisheries at my office next day, when the matter was discussed. The Chief Inspector of Fisheries said he would like three or four days to go thoroughly into the

question, the area having been closed pending inquiries into the question of the breeding ground for whales; and at the end of that period he submitted a minute to the Under Secretary in which he stated that while he held to the opinion that it was highly probable that in the waters on our North-West coast certain breeding grounds of whales were situated, he was prepared to admit he thought they were further north and outside the area mentioned in Captain Andersen's application. He suggested that before another application was dealt with, Mr. Stang should be asked if, in the event of the Government deciding to throw open to whaling portion of the waters north of Cape Lambert, he was still anxious to proceed with an application on behalf of Mr. C. Stang, which had been lodged as far back as 1911. The Under Secretary then minuted to me:--

1. (a) I recommend that this area, as applied for from Cape Lambert to 120th meridian, be thrown open; and (b) that the application of Captain Anderson be granted.
2. No promise is contained in the letters to Mr. Stang of priority or refusal; but merely of consideration. In considering the matter, one cannot lose sight of the fact that Mr. Stang's people already own three licenses. Secondly, two years have elapsed since anything has been heard from them. Thirdly, the area applied for is but a small portion only of that applied for by Stang. Fourthly, that the same objection exists to-day to throwing open that larger area as applied for in 1912. The above reasons show that consideration to Stang's previous application has been given, even though the promise to do so may be reasonably held to have elapsed by effluxion of time. I advise, therefore, no further reference to Mr. Stang is necessary.

I would like to refer to that minute because it is incorrect from beginning to end. It is a mis-statement of fact, and the Under Secretary, who wrote the minute, evidently had not read the file or was

too lazy to read it carefully. He said "No promises were contained in the letter to Mr. Stang as to priority or refusal but merely of consideration." I have here a minute written by the Department to the Chief Inspector of Fisheries, as follows:—

I should be glad to discuss this matter, in view of the fact that other exclusive licenses have been granted in areas where the potentialities of such have not been definitely determined. If you subsequently recommend that the area in question be thrown open, would you advise that this application be given priority of claim in view of the date they applied for the license? That is initialed J.R.C., Acting Under Secretary. On the same date we have the following (2-5-1912) to the Colonial Secretary—

I have discussed this matter with the Chief Inspector. The area applied for may be a breeding ground, and until the Chief Inspector makes further inquiry into the matter he considers it very undesirable to grant a license. Should, at a later date, the area be thrown open, it would be fair to give the present applicant priority of claim. Should we advise the applicant accordingly?

That also is initialed J.R.C., Acting Under Secretary. Then there is a footnote by Mr. Angwin to the Under Secretary, merely "Yes." The applicant was advised, and the letter is on the file informing this gentleman that if the area was thrown open he should have priority of claim; and, in the face of that, the Under Secretary writes a minute to the Minister denying that any person was ever given priority of claim. The minute says—

In considering the matter one cannot lose sight of the fact that Mr. Stang's people already own three licenses.

I do not know whether the Under Secretary is referring to Mr. A. Stang or to Mr. C. Stang; if he is referring to Mr. C. Stang, this minute is incorrect. Mr. C. Stang

is the director of one of these companies, and one only; he is a shareholder of one of these companies, and one only; and he has no interest whatever in the others. The Under Secretary must be referring to Mr. C. Stang, because he is the gentleman who made the application. Mr. A. Stang is only the attorney for the company, so that the Under Secretary could not have been referring to him. The Under Secretary says that two years have elapsed since anything has been heard of this minute. I have already shown that the Under Secretary, in consequence of the applications made to and reports furnished by Mr. Aldrich as to whether this area was a breeding ground, should have directed the Minister's attention to the fact that Mr. Stang had been told not only in one letter but in two, that when it was decided to throw open the closed area his application would receive consideration. Mr. North brushed that aside by saying that no application was received from this gentleman, and all the time his continued inquiries were on the file. The Minister again goes on to say—

Thirdly, the area applied for is but a small portion only of that applied for by Stang.

What difference does that make? Surely a person who applies for the whole area is entitled to consideration? He again says—

Fourthly, the same objection exists to-day to throwing open that larger area as applied for in 1912.

We have it that it is the opinion of the Fisheries Department that the areas should remain closed until further inquiries have been made in regard to breeding grounds. But why should the Under Secretary recommend the granting of a small area of these closed waters when he knew of the existing reasons against granting the applications? The amusing part of the minute is this paragraph: "The above reasons show that consideration to Stang's previous application has been given, even though the promise to do so may be reasonably held to have lapsed by effluxion of time." If

any person will tell me that the reasons I have read show that any consideration was given to any previous application, I will agree to withdraw my motion. Not one of these reasons has the slightest regard to Stang's application, and the minute, on the face of it, is absolutely ridiculous. Yet the Minister, in his memorandum to Cabinet, states that he was guided by that minute in coming to a decision. The minute says—

I thoroughly agree with you. Approval to "a" and "b" of your recommendation will mean the introduction of new blood, and be useful from the point of view of a check. Nothing could be gained by a reference to Mr. Stang, as I think he already controls quite enough. I approve of your recommendation.

I have already told the House that the reasons are incorrect. Mr. C. Stang, who applied for it, is interested in only one company. Is that any lawful reason why he should not have another license if it to to be granted?

The minute continues—

The next occurrence in this connection was the appearance of Mr. J. B. Holman, M.L.A., on the scene. He produced a number of letters written by the department to Mr. A. Stang relative to an application by Mr. C. Stang for the whole of the area from Cape Lambert to the eastern border. One of these letters, written on 6th May, 1912, while I was away electioneering, informed Mr. Stang that "should the area Mr. C. Stang has applied for be thrown open, it is considered reasonable that Mr. Stang should be given priority of claim."

Surely hon. members will see that if a gentleman receives such a letter from a Minister he is entitled to rely on it, but the excuse is made that it was written by a Minister controlling the department while the Colonial Secretary was away electioneering; therefore he was not bound by it. This is not fair dealing. If a man receives a letter from a Minister controlling a department that a certain thing is to be carried out, he is entitled to rely on the promise. Mr.

Stang was asked to again communicate on the subject during September next. A man who receives a letter from a Government department is not expected to go about making inquiries whether the Minister authorised it or not. If he receives a letter from a Government department he is entitled to conclude that the letter came from the Minister controlling the department, and in this case he did so. Mr. Angwin was acting in Mr. Drew's absence. The minute continues—

Another letter produced (written in reply to one from Mr. A. Stang on 8th November, 1912) stated that "if at any time it is intended to throw open the area, Mr. C. Stang's application will be borne in mind." This latter letter was based on the following minute of mine, when Mr. Stang's letter of 8th November was placed before me:—"Make no definite promise; say his application will be borne in mind." That was the full extent of my promise.

It is incorrect to say that was the full extent of his promise. The full extent of his promise in the original letter was that he should have priority of claim, and the second letter is worded so that Mr. Stang could read it, as he undoubtedly took it to mean, that when the matter was again brought up his priority of claim would be taken into consideration. This is the manner in which Mr. Drew sought to evade the issue. He said he did not give priority of claim but only said the application would be borne in mind. The minute proceeds—

I explained this to Mr. Holman and pointed out that the three companies at present operating were virtually a monopoly, and that to grant Mr. C. Stang's application would be to hand over more whaling waters to that monopoly.

This statement is entirely incorrect. They are three different companies, controlled by different directorates, whose shares have different values and are quoted separately on the Stock Exchange in Norway, and Mr. A. Stang is merely attorney for them.

Hon. W. Kingsmill: Have they the same boats?

Hon. A. G. JENKINS: No; three separate fleets. The minute continues—

Mr. Holman replied: "What difference would it make; they are all Norwegian companies"? or words to that effect. I told him distinctly I would not grant another exclusive license to what was virtually the one control, and he then said the area should be reserved for the benefit of the State, and added that he intended to write to Cabinet Ministers on the question . . . On top of this, and bearing the same date, Mr. A. Stang wrote protesting against the throwing open of the area and pointing out how it would prejudicially affect the West Australian Whaling Co. We have thus Mr. A. Stang, on 6th instant, pressing Mr. C. Stang's application, and we have Mr. A. Stang, ten days later, pointing out the injustice of granting the area to anyone, while at the same time we have Mr. Richard Haynes laboriously endeavouring, under instructions from Mr. A. Stang, to secure recognition of Mr. C. Stang's application.

That is a perfectly feasible position. The Minister seems to make a great deal of it, and puts it to Cabinet as a ridiculous proposal. Is it ridiculous when looked into carefully? We have Mr. A. Stang as attorney for the company opposing the throwing open of these waters. Then we have Mr. Haynes saying—"If these waters are thrown open Mr. C. Stang is entitled to priority of claim under your promise in this letter." Is there anything very absurd in that? One asks that the waters should be closed, the other says, "If you open them why should this company have priority over me?" That seems to be a very reasonable attitude for two gentlemen, acting in opposing interests, to take. One says, in effect—"Give me a license, if a license is to be given." The other says, "Keep the area closed." The minute continues—

It is palpable that Mr. C. Stang is an offshoot of the other companies now operating, which have been working in concert from the very start.

This is entirely incorrect, and the Minister has no authority for making such a statement. Mr. C. Stang is a director and shareholder in only one company.

The Colonial Secretary: I will give you some information about that.

Hon. A. G. JENKINS: I hope the Minister will. I will show what the companies have spent. One minute the Colonial Secretary wants to butter these companies up, and the next minute he wants to stick a knife in their backs.

Hon. W. Kingsmill: A harpoon.

Hon. A. G. JENKINS: Perhaps that would be more appropriate. The minute continues—

I have the evidence of the Norwegian weekly shipping gazette that the whole of these whaling fleets are controlled by one company—the Chr. Nielsen Co., of Norway.

The Chr. Nielsen Co. are only a firm of legal managers, and do not control these companies beyond having the legal management of them in their office. They have the management of a dozen or more other companies in the same way. The minute continues—

The three companies have failed to fulfil their obligations with the Government, although one of them is now almost in a position to do so.

That statement is also incorrect. They did not fail to carry out the conditions of their license. The Colonial Secretary said one of them was almost in a position to do so. At that time one of them had a shore factory erected at a cost of £15,000, and it had been working for more than a month.

The Colonial Secretary: Not at that date.

Hon. A. G. JENKINS: Yes; the Minister's minute is dated the 28th December.

The Colonial Secretary: That is wrong; it should be the 28th November.

Hon. A. G. JENKINS: How has that error occurred?

The Colonial Secretary. It is a misprint.

Hon. A. G. JENKINS: About the 28th November the Minister was informed by

Mr. A. Stang, the Attorney, that the Company had started whaling and were using their shore factory; therefore, the 28th December mentioned must be a mistake, because Parliament was not then sitting. On the 28th or 29th November, about the same day as the Minister wrote to Cabinet, he was informed by Mr. Stang that the company had started work at their shore factory.

The Colonial Secretary: Not at that time.

Hon. A. G. JENKINS: Yes, and had been using it for a month.

The Colonial Secretary: He said he would be starting in a few weeks.

Hon. A. G. JENKINS: The Minister should read the letter on the file. It stated that the Company had started operations. The Minister, in his minute, stated—

They have been merely abstracting the oil from the whales, and throwing the carcasses overboard, instead of converting them into fertiliser.

They were not bound by their license to do this, although it would have paid them if they had had a shore factory to make fertiliser. The Minister added—

They have erected no factory for the treatment of the whales, although they were required to have done so by April 1 last. To my mind, it would be monstrous to grant them a further exclusive license.

The Minister says it would be monstrous to grant a further exclusive license to these companies who have spent tens of thousands of pounds in this State, to whom he wrote a letter congratulating them on their bona fides, and stating that they had acted most honourably; whom he congratulated on the manner in which they were carrying out their operations, while he turned around to Cabinet and said it would be monstrous to grant them a further exclusive license. The letter is on the file. These three companies in 1912 spent £10,000 in this State for provisions and coal. This amount is exclusive of any machinery for the shore factory. In 1913 they spent £27,000 and in 1914 £40,000.

Hon. W. Patrick: The three companies?

Hon. A. G. JENKINS: Yes, and of the £40,000, £28,000 was spent at Albany alone. These are the companies to whom the Minister says it would be monstrous to give any further exclusive licenses. I agree that it might be wrong to give a monopoly to them, but if this area is to be thrown open it should be thrown open to the person or company prepared to give the most to the State in return for it. The Colonial Secretary's minute proceeds—

The view I have taken is that a check is needed on these companies, to see that they observe their contracts.

These are the companies who had been congratulated and had received such a laudatory letter from the Minister. The Minister added—

It is beyond the power of the Fisheries Department to provide that check, except at great expense to the State. Not only inspectors, but patrol boats would be required. But by the introduction of another company which we have good proof is on its own, the operations of the companies under Mr. Stang would be carefully watched, and any lapse reported, and *vice versa*.

These are the companies who had been congratulated by the Colonial Secretary on having honourably done something they were not obliged to do. Evidently the Minister intends to establish a system of informers. No doubt the Minister would be very glad if one company would inform on the others, but I doubt if Mr. Drew would get a gentleman occupying the position of Consul for Norway to act as an informer and notify him that others were not carrying out their obligations, and follow them around in patrol boats to see that they did. I think the Minister has mistaken the vocation of respectable companies if he thinks they are going to act as informers for the purpose of his department. In the agreement he sets out various

proposals and concludes his minute as follows:—

If it is wrong to throw open the area, it should be kept closed, and we should require no one to pay us for keeping it closed. If it is right, the offer of financial compensation for keeping it locked up should not be considered for a second. I now submit the application for the consideration of Cabinet, with the whole of the files containing correspondence bearing on the subject.

That is in reference to the proposal the three companies made. They said that whatever rent the State would be getting they would pay in order to keep the area closed so that the breeding grounds of the whales would not be interfered with. In connection with this minute, written by the Minister to Cabinet, on which this exclusive license was granted, I have shown that from the beginning to end it is written, on entirely incorrect premises, that statement after statement in it is, to say the least, incorrect, and that the whole of the facts, practically, on which this exclusive license was granted, did not exist except in the Minister's imagination. I had an interview with Mr. Stang, attorney of the company, and in consequence of the statements made by the Colonial Secretary as to the operations of the Act he has furnished me with a somewhat lengthy statement as to what the companies have done in the State since they started operations here, and also commenting, in view of the attacks made on the companies on the way in which the Minister has spoken of them in his minute. I hope I may be permitted to continue my remarks, Mr. President.

The PRESIDENT: With the permission of the House the hon. member may continue his speech. Is it the permission of the House that the Hon. Mr. Jenkins be allowed to continue his remarks?

Leave given.

Hon. A. G. JENKINS: This is the statement that has been handed to me by Mr. Stang in reply to the Colonial Secretary's memorandum—

Mr. Drew states that one of the conditions attaching to the holding of the licenses was that each company should within 15 months from the 1st January, 1913, erect a shore factory at a cost of not less than £5,000 for the treatment of the carcasses of whales and the conversion of the by-products into fertilisers. This is not correct. The contracts contain no reference to the erection of shore stations and no mention is made of converting the by-products into fertilisers. The agreements, which are all alike, provide that the Western Australia Whaling Co. shall within 12 months from the 1st January, 1912, within the said area or on the mainland establish a factory and works for the treatment of whales, whale blubber, and other material derived from whales and to provide all necessary plant and machinery for that purpose, and to expend a sum of not less than £5,000 thereon. To *bona fide* and to the satisfaction of the Minister commence the industry and to establish a factory as aforesaid, etc. The Fremantle and Spermacet Companies to commence similar operations within 15 months from the 1st July, 1912. The licenses made it optional to establish factories within the area or on the mainland. The companies have provided floating factories and steam whaling vessels to a value of many times the sum provided in the agreement.

I may say the whaling boats and appliances of these three companies amount to a sum of not less than £200,000.

That the operations have been carried out to the Minister's satisfaction is evidenced by his letter to me of the 21st October last, in which he declares his satisfaction.

This is the letter I referred to in which the Minister thanks the company.

Further, the department has been in close touch with the companies' operations and has never at any time notified that shore factories should be established. It is only since the Australia Company came on the scene that the Minister has discovered this. That it

was not contemplated in the licenses is evidenced by the fact, that when I agreed to sign supplementary agreements binding the Western Australia and Fremantle Companies to erect shore stations, the Crown Law authorities held that my power of attorney was not sufficiently comprehensive to permit of my binding the companies to do something which was not expressed in the original agreements, and required me to send the supplementary agreements home for the signature of my directors. It is admitted and always has been admitted that the companies intended to erect shore stations, in fact this was stated in the original applications. A suitable site had first to be found, but it is absurd to suppose, as the Minister apparently contends, that such shore factories could be erected within 12 and 15 months upon a practically unknown coast, and without first having examined same.

In the original application for the license to issue the clause was never inserted that they should make shore factories. The Crown Law authorities prepared the lease and left that clause out. I do not know for what reason.

It has taken the Spermacet Whaling Company 13 months continuous work to complete such a station, after the arrival of the machinery in the State. If the Minister's contention is right the company should have commenced preparations before the issue of the license. The companies intended to erect shore factories, not because they were compelled to do so under their licenses, but because it is a more payable proposition, as it would enable the raw material to be more fully utilised. Suitable sites must first be found. The Minister was from the inception aware of the companies' intention in this respect, but now seeks to interpret the agreement to mean that the manufacture of guano was one of the conditions upon which the licenses were granted, but practically claims that by an error this has not been properly expressed in the license. If such had been the department's intention why

not clearly say so? Such a suggestion was made to the department in the original application, so that ample opportunity was given them to do so, had they thought fit.

As I pointed out, the department did not see fit to include that in the licenses.

**The West Australian Whaling Company:**—This company at its inception in 1911 purchased machinery for erection ashore to the value of £8,600. The Minister has been so informed in writing and has also seen the balance sheet in which the machinery stands at the above-mentioned figure. He is also aware that as far back as 1912 it became necessary to cable countermanding the sending out of this machinery, owing to no suitable site having been found upon which it could be erected. **The Fremantle Whaling Co.:**—The Minister is aware that certain machinery for erection ashore arrived for this company in February, 1913, but had to be returned, as no site had been found upon which it could be erected. He is further aware that another lot of machinery arrived in March, 1914, and now lies at Albany awaiting a suitable site. He has seen some of the Customs entries relating to this last lot, amounting to about £1,000. **The Spermacet Whaling Company,** operating at Albany:—In his letter to the Premier (in Cabinet) the Minister states: "The three companies have failed to fulfil their obligations with the Government, although one of them is now almost in a position to do so." The Minister or his officers is aware that the above Company commenced the erection of a shore factory in October, 1913, which was completed in November, 1914, after 13 months continuous work. On 30th November I wrote to the department: "In reply to your letter of the 19th instant, No. 220/14, I beg to inform you that whaling operations at the shore station at Frenchman's Bay commenced last week." Yet on the 28th December the Minister notifies the Premier that the company has not fulfilled its obligations, but "is almost in a position to do so."

**The Colonial Secretary:** That letter was written two days after Cabinet.

**Hon. A. G. JENKINS:** I regret that I made the mistake about the minute of the 28th December. I know it was received two days after the Minister wrote his minute to Cabinet.

It is pointed out that the Minister in his letter to the Premier (in Cabinet) merely makes the bald statement that the three companies have not fulfilled their obligations. He makes no mention of the difficulties under which two of the companies have laboured in finding suitable sites and the money already expended in machinery and exploratory work, and he misrepresents the third company, which at the time his minute was penned had operated fully a month from its shore factory.

As a matter of fact it had operated, but the Minister was not informed. I see that on the file there is a letter from Mr. Aldrich congratulating the company on the manner in which they are carrying on their operations, and stating that he knows of his own knowledge the trouble they had in locating factories on an unknown coast, and that they had done everything possible to carry out their obligations to erect a shore factory. That is on the file.

The essential requirements for the erection of shore stations are: that they must be erected in a harbour close to the "track" of the whales, that the harbour must afford good shelter and fair depth of water to vessels and that there must be fresh water ashore. These conditions were found at Albany, and although the area held by this company is unquestionably the poorest whaling field of the three, proved by actual experience, the erection of a shore station was immediately proceeded with, because it was commercially more profitable to do so, as whatever raw material was obtained could be utilised to a fuller extent. The Minister is aware that the W.A. and the Fremantle Whaling Companies have spent thousands of pounds in endeavouring to locate suitable sites. His department is further aware that at the beginning of



1913, the directors of the Fremantle Company seriously considered forfeiting their license on the grounds that no suitable sites could be found; that the payment of the half-yearly license fees was held over fully a month to enable me to communicate by letter and endeavour to induce the directors to continue; in this I was successful, because the department did not wish to lose the revenue. As an inducement not to forfeit the license, the Fisheries Department on this occasion verbally offered to recommend that the Fremantle Company be exempted from operating on their area, which would render the company free to negotiate with another company to operate elsewhere. The companies continued to spend money on explorations, the benefits derived from which the Minister now proposes to hand over to a company, which has failed elsewhere. A singular reward for the pioneers of the industry in this State. Referring to the supplementary agreements and deposits made by me (subject to my directors' approval), I beg to say: 1, The Fremantle Company: In an interview with the Minister I pointed out what this company had done to secure a suitable site and that only as recently as July I had made arrangements through Mr. Fallowfield to send an officer to examine the Abrolhos Islands. The Minister asked me to make a deposit to which I was at first strongly opposed. He stated that he was being constantly importuned by Mr. Fallowfield to cancel the Fremantle Company's license, and advanced the somewhat personal argument that my agreeing to make a deposit would strengthen his hands, whereupon I agreed.

Mr. Fallowfield, who was Vice-Consul for Norway, pursued the most extraordinary attitude. He was there to protect the Norwegian interests, and he was doing all he could to induce the Minister to forfeit the rights of one of the Norwegian companies.

The Minister strongly condemned Mr. Fallowfield's conduct and expressed surprise that a Norwegian Vice-Consul,

whose duty it is to protect Norwegian vested interests abroad, should on the contrary endeavour to injure them. The West Australian Whaling Company:—Upon the suggestion of the Fisheries Department I agreed to a similar supplementary agreement in connection with the above company, and also fell in with the Minister's wishes regarding a deposit on condition that the area north of Cape Lambert would not be thrown open.

That is the statement Mr. Stang made.

This assurance he gave me in the presence of Mr. Swan. The Minister admits promising this, but denies that it was a condition, but merely an afterthought. Mr. Swan and I are emphatic in stating that it was a definite promise. It must be obvious that no man in his senses would agree to conditions involving heavy expenditure if he thought it likely that his supplies of raw material would be almost immediately interfered with. The Minister also offered to send me a letter expressing his satisfaction at the operations of the Fremantle and W.A. Companies. This promise he kept. During this interview the Minister again strongly condemned Mr. Fallowfield's conduct, and informed us that he had been compelled to decline to see the gentleman further. The Minister states that he has the evidence of the *Norwegian Weekly Shipping Gazette* that the three companies are controlled by Messrs. Chr. Nielsen & Co.

The Colonial Secretary: Are they paid a salary?

Hon. A. G. JENKINS: I believe this firm only acts as local managers in the ordinary way that local managers act. They are paid a small fixed allowance on the net profits, and a sum for office accommodation. Then he makes certain remarks with regard to Mr. C. Stang, to which I need not refer. After that he touches on the present Australian company. This company refused to make an application for the area in question when it was first thrown open, but went to New South Wales, where its operations were not attended by success. The shares of the company, I

understand, were at a heavy discount on the Norwegian stock exchanges prior to the granting of the present license. The company made several previous applications which were refused, but now it has apparently made a successful application. Towards the conclusion of the report, the following is stated—

I desire to state that never at any time has the department undertaken practical observations to locate the breeding grounds. Up to the 9th October the department kept the area proposed to be licensed closed on the ground that it was the breeding ground. What steps has the department taken between that date and the end of the same month to cause it to change its opinion? Breeding grounds can only be located by means of having vessels located in the localities for certain definite periods. This is the method adopted by my companies, with the result that we have definitely located the breeding grounds in the area mentioned; this I have asked permission to prove. The Minister simply brushes this on one side with the remark that he prefers the opinion of his responsible officers, who, I may add, have never been in the locality for the purpose of investigating the matter.

The report concludes as follows:—

Practically the whole of the Minister's memorandum to the Premier (in Cabinet) is confined to an attempt to prove that my companies have failed to carry out certain alleged obligations which do not exist in the contract.

I have not read the whole of the paragraphs, because they really have not anything to do with the case, except from this aspect, that, as I said before, if a license was to be granted it should be granted to the gentleman who holds the department's promise that he shall have priority of claim—namely, Mr. C. Stang, of Christiania, Norway. I refer hon. members then to the department's letter of the 6th May, 1912, in response to Mr. C. Stang's application, which letter reads as follows:—

In answer to your letter of the 19th ultimo, inquiring whether the department is now prepared to deal with the application of Mr. C. Stang for an exclusive license of certain coastal waters for whale fishing purposes, I have the honour, by direction, to inform you that the Hon. the Minister is not prepared to further consider the application until the result of certain inquiries now being made is known. Should the area be thrown open, however, it is considered only reasonable that Mr. Stang should be given priority of claim, and I would suggest that you again communicate on the subject during September next.

Hon. R. J. Lynn: Who wrote that letter?

Hon. A. G. JENKINS: Mr. Campbell, the Acting Under Secretary. There, I say, is the definite promise to Mr. C. Stang. He communicated again in November, and he got a reply to the effect that his priority of claim would be borne in mind. No matter what the Minister may contend, I say that was practically an endorsement of the letter I have read. I need not read the remaining letters which passed between the parties on the point as to whether Mr. C. Stang did or did not receive fair treatment. Those letters are beside the question. That aspect represents only one reason why this whaling license should not be granted. My main reason for opposing the issue of the license is that the waters affected are closed waters, and were closed waters up to the 29th October, 1914. All the applicants were informed to that effect. On the 29th October, 1914, however, this application was put in, and on the 5th November it was granted without the rent having been determined. The matter was rushed through, or an attempt was made to rush it through, for some reason or other. I maintain that if it was intended to open that area, it should have been open to be tendered for by the world at large—everybody should have had an opportunity of tendering for it. In any case, how-

ever, the area ought not to be thrown open until the department have made an exhaustive examination into the question of whether this is the area in which the whales breed. If it is proved that the whales do not breed there, by all means grant the area to the person or company prepared to give the most money for it. If it is the breeding ground of whales, then of course it must not be opened on any consideration. Once we disturb the breeding ground of the whales, we shall straightway destroy the industry. I am sorry that I have detained the House at such length, but for the reasons I have stated I thought it only right that all the facts in connection with the granting of this license, so far as I could gather them from the files, should be brought before hon. members, so that we might have the opportunity of deciding, as under the Fisheries Act Amendment Act we have the right to decide, that the license shall be disallowed. It is with that object I have moved the motion.

Hon. R. J. LYNN (West) [6.7]: I formally second the motion.

The COLONIAL SECRETARY (Hon. J. M. Drew—Central) [6.8]: I intend to move that the debate be adjourned until Thursday next.

Hon. A. G. Jenkins: Is that the last day on which the license can be disallowed?

The COLONIAL SECRETARY: No. Tuesday will be the last day.

Hon. A. G. Jenkins: I object to that adjournment.

The COLONIAL SECRETARY: I cannot possibly reply to all the statements of the hon. member if I have only until to-morrow. Apart from this motion, I have to introduce a heavy Bill—the Industries Assistance Bill.

Hon. A. G. JENKINS: I wish to point out that Thursday is the last day on which the House can either allow or disallow the license.

Hon. W. Kingsmill: The Minister might withdraw the agreement and lay it on the Table again later. That is only a fair thing.

Hon. A. G. JENKINS: I do not object to an adjournment until Thursday if the Minister will consent to the course suggested by Mr. Kingsmill. But we may possibly find ourselves in the position that on Thursday the country members may be away, and we may have a thin House to decide what, in my opinion, is a most important question. We might also find that we cannot conclude the debate on Thursday.

Hon. W. Kingsmill: On a point of order, I think that in the case of regulations which may be disallowed by the House, notice of motion of disallowance is in itself sufficient to prevent the regulations from coming into effect.

Hon. A. G. Jenkins: The license has to be disallowed within 14 days.

Hon. W. Kingsmill: Perhaps under the circumstances the Minister will withdraw the license and lay it on the Table of the House again to-morrow.

Hon. J. F. Cullen: There may be no quorum on Thursday.

The COLONIAL SECRETARY: Under the circumstances I will not move the adjournment of the debate until Thursday. It will, however, be very awkward indeed for me to make a thorough examination of the files, and prepare my replies to all the statements which have been made, between now and to-morrow. I am being placed in an unfair position.

Hon. A. G. Jenkins: I do not want to do that. You can take the other course. I myself had to make my examination of the files in 24 hours.

Hon. R. J. LYNN: I wish to say, for the information of the Colonial Secretary, that I desire to speak on this question to-morrow. So far, I have merely seconded the motion formally.

The COLONIAL SECRETARY: I move—

*That the debate be adjourned until to-morrow.*

Motion passed.

*Sitting suspended from 6.11 to 7.30 p.m.*

# BILL—CHURCH OF ENGLAND LANDS.

*In Committee.*

Bill passed through Committee without debate; reported without amendment, and the report adopted.

# BILL—STAMP ACT AMENDMENT.

Received from the Assembly and read a first time.

# BILL—LOCAL OPTION VOTE CONTINUANCE.

Returned from the Assembly without amendment.

# BILL—LICENSING ACT AMENDMENT CONTINUANCE.

*Second Reading.*

Hon. J. E. DODD (Honorary Minister—South) [7.36] in moving the second reading said: All hon. members understand the Bill. The Act was passed last session. Under it the Governor is empowered by proclamation to restrict or prohibit the sale of liquor in any licensing district and has power to vary the hours before or after which licensed premises may be open. Power is also given to search for and seize liquor, and to reduce rent during prescribed periods. The duration of the Act is until the 31st March of this year, and it is desired to continue its operation until the end of the year. The debate of last session is probably fresh in the minds of hon. members and there is, therefore, no need for me to further explain the Bill. There has been no proclamation this year under the Act, and I suppose there will not be any necessity to issue one. It was only brought into force owing to the state of war and the possible need for doing something to limit the sale of liquor where a large number of foreigners were congregated. Nothing has happened to date to cause the Act to be proclaimed. The Government think, however, it will be

well to continue this legislation until the end of the year. I move—

*That the Bill be now read a second time.*

Question passed.

Bill read a second time.

*In Committee.*

Bill passed through Committee without debate, reported without amendment, and the report adopted.

# BILL—GRAIN AND FOODSTUFF.

*Assembly's Message.*

A Message having been received from the Assembly notifying that it had agreed to make amendments Nos. 1, 2, 3, 5, and 6 requested by the Council in the Bill, but declined to make amendment No. 4, the Message was now considered.

Hon. W. KINGSMILL (Metropolitan) [7.43]: Before you leave the Chair, Sir, I would call attention to the fact that it is absolutely impossible to consider this Message in Committee. It is not a Committee message at all. The Message we have received from the Assembly is in answer to a Message of ours dealing with the Grain and Foodstuff Bill. It is a series of observations, which in my opinion are in the main wrong, regarding a constitutional point, and it must be considered, not in Committee, but in the whole Council, and any Message which we may send from this Chamber to the Assembly must go, not out of Committee but from the Council. I may be pardoned if I deal as shortly as possible with the subject of the Message we have received from the Assembly. The Message is precisely similar to a Message received on a former occasion when we pressed an amendment to the Agricultural Bank Act Amendment Bill. There is a good deal of diversity of procedure in regard to the two Houses in this connection. When it suits another place to accept pressed amendments they have not the slightest hesitation in accepting them. I think they received and endorsed a pressed amendment of ours on the Fremantle Improvement Bill, and I

know that they have received and accepted other pressed amendments of ours on other Bills. So it seems to me that to take the objection they have done on a constitutional point, in which I maintain this House is perfectly right, shows a desire to lose the Bill and not to place it on the statute-book.

The Colonial Secretary: That is not correct.

Hon. W. KINGSMILL: I am pleased to hear the Minister say it is not correct. But it looks uncommonly like it, and more especially in view of the fact that when the Bill was to have been passed through all its stages, when the unfortunate mistake was made which caused the Bill to be hung up, we were well aware that another place was prepared to agree to all our amendments. That is a very open secret. It is only when this delay, which has been explained by the Colonial Secretary, occurred, that another place bethought themselves that they would object to this amendment. With regard to the amendment itself, it has been said that there is very little difference between the amendment and the original Bill. I cannot altogether endorse that, when one considers the wording of the original Bill that the commissioners in fixing the price of wheat "shall have regard" to certain circumstances; and I think you will agree, Mr. President, that if that is not purposely vague, it is at all events very badly drafted. What is the meaning of the words, "Having regard to"?

Hon. Sir E. H. Wittenoom: It presupposes experienced commissioners, I imagine.

Hon. W. KINGSMILL: Even if the Commissioners are experienced, and some are experienced I believe, the words "having regard to" certain things carry no meaning whatever and no instructions to the commissioners. One walks into a room and one looks at the pictures on the wall; one has regard to them but one cannot say that they are going to influence one's actions for a moment. So it is with the commissioners. They have regard to certain circumstances, they pass from their minds, they are finished with

them, and they fix whatever price they like. I do not know that I attach much importance either to the amendment or to the original Bill itself, which I look upon as futile and an inept attempt to interfere with the great commercial principle of supply and demand. It could only be of a most temporary nature. It is like placing a pebble in the falls of Niagara; it will not cause a ripple on the surface of the commercial world. It is more with the constitutional aspect of the question that I wish to deal. I want to say that as long as the present circumstances obtain, so long will these little differences occur, when it suits either place to create them. It is only by means of making some alterations in the present state of affairs, that these unfortunate occurrences can be obviated. It is stated that the Bill concerning which this Message is sent, is a money Bill. I would like to know who said that it was a money Bill.

The Colonial Secretary: One clause deals with that question.

The PRESIDENT: Hon. members must not converse.

Hon. W. KINGSMILL: I would like to know who said it was a money Bill. It is one of the defects of our parliamentary procedure that it lies within the powers of no person, so far as I can find out, to determine what is a money Bill and what is not a money Bill. Most certainly, in my opinion, after reading the Bill through carefully, I doubt whether the clause that the Colonial Secretary has attempted to refer to would make the Bill a money Bill at all. Even if that clause were to make the Bill a money Bill, how grossly unfair it is that in an amendment which does not deal with that clause at all, or with the financial aspect of the Bill, that this House should be robbed of its just privileges and perfect rights. It is an anomalous state of affairs which cannot continue to exist. The only way we can get over it is to place either in our Standing Orders or in the Constitution of the State such a definition of money Bills as to enable this House to know exactly what is a money Bill, and to enable those in whose hands the ques-

tion of determining which are money Bills lies so to determine them. I would recommend the procedure which was adopted under the Federal Constitution. There it is impossible for a hybrid Bill of this sort to come before the Federal Parliament. It must either be a financial Bill or an ordinary Bill. This is undoubtedly an ordinary Bill. If there is any money to be raised to comply with the provision of it, if necessary a special Bill should be brought in which the House could treat as a money Bill. To ask us to suffer restrictions which another place alleges we should suffer, on account of this being a money Bill, is grossly unfair and apt to cause a good deal of interference with the course of ordinary legislation. I wish to make these remarks, not that I have any motion to bring forward—

The PRESIDENT: I was hoping that the hon. member would get to some point.

Hon. W. KINGSMILL: I was protesting against the Message being considered in Committee.

The PRESIDENT: We started with that.

Hon. W. KINGSMILL: I desire to ask your pardon, Sir, if I have digressed somewhat from the point of order which I strove to raise. I think that the remarks I have made tend to show that they might be used as an argument to substantiate the point of order, that this Message should not be considered in Committee. I regret extremely that this little controversy has arisen. I do not know that I can suggest any way out of the difficulty. I do not place very much importance upon either the amendment or upon the Bill itself. I wish to enter my protest against the Message being considered in Committee. If any Message is sent in answer to the Message from the Legislative Assembly, I venture to say that it should go from the whole Council and not from the Committee part of it.

Hon. J. F. Cullen: What is the question before the House?

Hon. W. KINGSMILL: I ask your ruling, Sir, as to whether this Message

should be considered in Committee or in the whole of the Council?

The PRESIDENT: In the face of the knowledge that the Colonial Secretary was prepared to submit some motion for the suspension of the Standing Orders, by which certain things would result, I was willing to allow this to stand as one stage along the path leading to a solution of the difficulty. I cannot say, what I said at the beginning, that this Chamber has found any difficulty. On looking at the daily Press, and I watch it very narrowly, I see that Messages are printed there as purporting to be Messages sent from the Assembly to the Council which are not the Messages which I have read out to hon members. The Message which I read out on Thursday right began something like this, "There is a difficulty in the way of consideration by the Legislative Assembly," and so on. But when I read my paper this morning I found that there was a lot of high flowery language which did not appear in the papers as they were presented to me. I have said that I found no difficulty in our Message that was sent. We sent a Message down with a little advice. I think the whole thing is accounted for by the narrow meaning of the word "press" as applied to this Message. The Parliamentary meaning of the word "press" is simply "to again request," to give the Assembly another opportunity—that is my view of it—not to use any terrible pressure or tyrannical power of insistence. I maintain that we did give the Assembly another opportunity. I think that we are prepared and willing to give the Legislative Assembly every opportunity—in fact we have contended that at every stage we would give the other House an opportunity—of reconsidering its steps. Sitting as President in this Chair, interpreting the Standing Orders, I find there is no difficulty, so that I am stopped at the outset of that Message. When I looked at it I decided not to put it as a Message from the Assembly. It has never been put from this Chair as a Message from the Assembly.

Hon. J. F. Cullen: What is the question before the House?

The PRESIDENT: There is no question before the House. It is only this: in the interval between Thursday night and this afternoon I understood that the leaders of the House would have come prepared to-day, after having put their heads together, with some plan which would show a way out of the difficulty, which they find. Since I have been in this Chamber this afternoon I have heard nothing which will show me any way out of the difficulty. I listened to the various members who have addressed the Chamber in the vain hope that they would afford a way out of the difficulty which seems to have been found. But I have myself found no difficulty. We have our Standing Orders and we have acted up to them, and if the other House refuses to accept that Message we shall never be able to get any farther.

The COLONIAL SECRETARY (Hon. J. M. Drew—Central) [7.53]: I move—

*That the following Message be sent to the Legislative Assembly:—"The Council acquaints the Legislative Assembly, in reply to its Message No. 7, that without prejudice, and on the understanding that the Council's action on this occasion will not be taken advantage of by the Assembly as a precedent, it is prepared to waive its right to press its request for amendment No. 4 in the Grain and Foodstuff Bill. The Council makes this reservation because the Assembly in its Message No. 7 has thought fit to copy and to use as a precedent a Message which was sent by the Assembly to the Council at 1.30 on the morning of the last day of the Session 1911. That Message had reference to a trivial amendment in the Agricultural Bank Act Amendment Bill, the principle of which Bill was approved of by all parties in both Houses. To that Message the Council returned at 3 a.m. a similar reply to that contained in this Message. The Council is further induced to adopt this course on this occasion because it is now generally admitted that the amendment, if*

*inserted, would not in any material degree alter the effect of the clause as it originally stood."*

The PRESIDENT: We cannot consider the matter in this way. This is a thing where each word has to be weighed and sentences have to be balanced. We cannot see the full force of the words in this way. We have had four days interval to enable the leader of the House to point out some way which will enable us to get over the difficulty in regard to the Standing Orders. Can the Colonial Secretary point out the Standing Order which will help us out of the difficulty in a way that will comply with our Standing Orders?

The Colonial Secretary: I cannot see any way out of the difficulty.

The PRESIDENT: Then what is the good of going on in this way?

The Colonial Secretary: I think this House is prepared to waive its rights—

The PRESIDENT: I must protest, as President of this Chamber, against any question of waiving rights being considered. We sent a Message down which did not curtail their rights, in fact which exceeded the rights of the other House and gave it more rights than it actually wanted. The fact is that they do not want to have these rights at all. They do not want the liberty of rejecting any rights. To take a leaf from their book I say that they do not want to place us in the position of giving them any rights. We are not blocking them of any rights they may possess. We have said that we press a certain request. We stick to that request and we press the request for an amendment. We admit we cannot make the amendment ourselves. We admit that it must be done by them. We request the other House to make that amendment. We have done so once. This has failed. Our Message was couched in language that was overflowing with good will. We wished that they should have one more chance. We are not quibbling; we have sent a Message to the Assembly pressing a request. We have, on many occasions, sat until the small hours of the morning dealing with similar

measures, and we have never known how we were to be treated; whether the Assembly was going to sit on the Council, or whether they were going to tell us that we were depriving them of their rights. We are giving them one more chance. It might be well for the leader of the House to delay the matter for a few days so that there might be an interval for the Legislative Assembly to again look at the matter; but I wish to impress upon the Colonial Secretary my abhorrence of the phrase which is constantly being used that we are taking away the rights of the Legislative Assembly. As a matter of fact we are adding to their rights, because we are giving them an additional chance of considering the position. We are saying, "We agree with you, except on one point, and we are now giving you a chance to consider it. We will send it back to you, and we ask you, as one brother would request another, to agree to our proposal." We are pressing the matter in the kindest and most brotherly way. These words ought to carry some weight. I do not see that we can go any further. All we have been doing since we have been here has been irregular, but it has given members an opportunity of expressing their views.

Hon. W. KINGSMILL: May I suggest that the leader of the House should give notice of the Message he wishes to send, and it is well that we should have a chance of seeing it on the Notice Paper.

Hon. J. F. CULLEN: It is a ridiculous Message; twaddle.

The COLONIAL SECRETARY: I cannot see why the matter cannot be discussed now. This is very serious in spite of what Mr. Kingmill says. The Government are most sincere about this Bill, and are anxious that it should become law. I have done all in my power.

Hon. J. F. CULLEN: May I ask, through you, Mr. President, whether the Minister has thought out this Message, or whether he has just picked it up and thrown it at the House?

The COLONIAL SECRETARY: That is my business, not the hon. member's.

Hon. H. CARSON: May I ask, Mr. President, whether you have refused to take this Message?

The PRESIDENT: I have not seen a Message.

Hon. Sir E. H. WITTENOOM: What is before the House?

The PRESIDENT: The Message before the House is this—

The Legislative Assembly acquaints the Legislative Council that there is a difficulty in the way of the consideration by the Legislative Assembly of a Message in which a request is pressed, and requests that the Legislative Council do further consider Message No. 7 transmitted by them with regard to "The Grain and Foodstuff Bill, 1914."

If the leader of the House will show me how we can go on, I will allow the debate to proceed, on that motion.

The COLONIAL SECRETARY: In order to simplify proceedings I shall give notice that to-morrow I shall move that the Message which I have read to the House be transmitted to the Legislative Assembly. Really, I must say that I have never known such a position to occur in this House before.

The PRESIDENT: I do not think the House can deal with a motion which they have not seen.

Hon. A. G. JENKINS: May we not suspend the Standing Orders so as to consider that Message from the Legislative Assembly? My object in suggesting that is, that I see a possible way out of the difficulty.

The PRESIDENT: Yes, by the will of the House.

Hon. J. CORNELL: May I ask the leader of the House to inform us of the nature of the difficulty which stands in the way of the Legislative Assembly agreeing to our amendments?

Hon. D. G. GAWLER: A constitutional difficulty.

Hon. J. CORNELL: Then why do they not say so?

The COLONIAL SECRETARY: I wish it to be distinctly understood that I am being forced to place this Message on



the Notice Paper. I wanted it to be considered to-night.

Hon. A. G. JENKINS: Is it not possible, by the will of the House, to consider the matter this evening; it seems to me a pity that it should be adjourned? At any rate we could start a discussion this evening, and if it became necessary to adjourn the matter, that could be done.

The Colonial Secretary: There is opposition all round.

Hon. Sir E. H. Wittenoom: The whole thing seems very involved, and I think we should have time to consider it.

*Sitting suspended from 8.15 to 8.30 p.m.*

*House adjourned at 8.31 p.m.*

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## Legislative Assembly.

*Tuesday, 19th January, 1915.*

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The SPEAKER took the Chair at 4.30 p.m., and read prayers.

### QUESTION—RAILWAY WASH- AWAYS.

Mr. HOLMAN (without notice) asked the Premier: Is he aware that owing to washaways on the Geraldton-Meekatharra railway the trains have not been able to get through, and it is possible that some days may elapse before proper communication is restored, as the non-

delivery of mails and other necessities causes great inconvenience. Will he make immediate arrangements for the delivery of the mails and other necessities by motor tricycles or other means to Meekatharra and other centres affected?

The PREMIER replied: I have noticed what the hon. member has stated and I have been advised by the Commissioner for Railways within the last ten minutes that he expects being able to make temporary repairs which will enable a train to leave Yalgoo for Meekatharra at daylight to-morrow.

### QUESTION—WORKERS' HOMES, LEASEHOLD APPLICATIONS.

Mr. THOMSON asked the Premier: 1, Is it a fact that applications are being received, and approved, for workers' homes under Part 3 (leasehold) of "The Workers' Homes Act, 1911"? 2, If so, will he state why the same treatment is not being extended to applicants under Part 4 of the same Act?

The PREMIER replied: 1, Applications are being received for lots under Part III.; two applications have been approved for the erection of new dwellings under Part III., since August, 1914, when all lots were temporarily withdrawn from selection, i.e., Fremantle one (1), Geraldton one (1). 2, Applications are not at present being invited under Part IV., as it is more difficult to control expenditure where dwellings are erected by contractors than where the buildings are erected and the cost of wages and material are controlled by the Board.

### QUESTION—ORANGES EXPORTED TO VICTORIA.

Hon. J. D. CONNOLLY asked the Minister for Lands: 1, Has his attention been drawn to the article in the *West Australian* of 14th inst. on our fruit industry, in which it is stated that a large consignment of oranges sent from this State to Victoria was rejected by the