LEGISLATIVE COUNCIL,

Friday, 6th August, 1880.

Petition—Perth Church of England Collegiate School Act Repeal Bill—Warehouse Accommodation at Fremantle—Transfer of Land Act, 1874, Amendment Bill: third reading—District Roads Act, 1871, Amendment Bill: in committee—Messages Nos. 3, 4, and 5—Destructive Insects and Substances Bill; referred to a select committee—Wines, Beer, and Spirit Sale (Consolidation) Bill: further considered in committee—Sandalwood Bill: referred to a select committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

PETITION.

MR. CAREY presented a petition from the Bunbury Jarrah Timber Company (Limited), praying the Legislature to grant the company the exclusive right to cut timber on certain areas of land in the Bunbury district, and other privileges.

The petition was received and read.

PERTH CHURCH OF ENGLAND COLLEGIATE SCHOOL ACT REPEAL BILL.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy), in accordance with notice, moved the first reading of a Bill to dissolve the Corporation of the Governors of the Perth Church of England Collegiate School, and for other purposes.

MR. STEERE moved, as an amendment, That the Bill being a private Bill, ought to be introduced in accordance with Standing Order 106. There could be no doubt whatever as to the measure being a private Bill, and not one which the Governor was empowered to introduce under the provisions of Standing Order 80. *May*, referring to the distinctive character of private Bills, said: "Every bill for the particular interest or "benefit of any person or persons is "treated, in Parliament, as a private Bill. "Whether it be for the interest of an "individual, a public company, or corporation, a parish, a city, a county, or "other locality, it is equally distinguished from a measure of public policy, "in which the whole community are "interested; and this distinction is "marked by the solicitation of private "Bills by the parties themselves, whose "interests are concerned." This being the distinctive character of a private Bill, it could not be contended for a moment that the present Bill, affecting, as it did, the particular interest of a public corporation, was not a private Bill. He might be told that many other Bills of a similar character had been introduced in the manner it was proposed to introduce this one, the formalities pertaining to private Bills being dispensed with. But if they had committed this irregularity nine times, surely that was no valid reason why they should do so a tenth time. He therefore begged to move the amendment.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) pointed out that the Bill was brought in merely for the purpose of repealing an Act which was already on the public statute book, and, on that account, he thought the Bill might fairly be regarded as a public measure. He would also draw the attention of the House to page 16 of the "Epitome of the Imperial Acts relating to the Constitution of the Legislative Council," which rendered it lawful for the Governor to transmit for the consideration of the House the draft of any Bill which may appear to His Excellency desirable to introduce. It seemed to him that the Governor had a perfect right to introduce the present Bill, in the face of that provision.

POINT OF ORDER.

THE SPEAKER said he had no doubt, in his own mind, that the Bill was a private Bill, and that none of the forms required by their Standing Orders in the case of private Bills had been complied with as regards the present measure. But there was this doubt in his mind—whether it was not the Governor's prerogative to send a Bill of this character for the consideration of the House without reference to the formalities necessary to be observed in connection with private Bills. According to the Imperial Act, it was quite competent for the Governor to send the draft of any Bill which he considered desirable, for the consideration of the House, and, that being so, he thought the House was bound to receive and consider the present Bill, although, strictly speaking, it was one of a private character.

MR. STONE was glad to hear His Honor the Speaker ruling as he had ruled, for he had a distinct recollection of His Honor having ruled in the same way

on a former occasion, when he (Mr. Stone) had the pleasure of occupying the office of Clerk to the Council, some years ago, when Mr. Barlee was Colonial Secretary. A question was then raised as to the right of the Governor to introduce a Bill of this character, and it was ruled by Mr. Speaker on that occasion that, under the Imperial Act, it was competent for His Excellency to send down to the House the draft of any Bill which, in His Excellency's opinion, was desirable to be introduced. Personally, he (Mr. Stone) had every desire to conform strictly with the rules of the House, as laid down in their Standing Orders, but he must say that it had struck him as very singular that such opposition should be manifested to the introduction of the present Bill, at this particular time. He found, on reference to the Bills which had already passed that House, that many a dozen Bills of the same character had been agreed to without demur, and he failed to understand the nature of the opposition offered on the present occasion by the hon. member for Swan, unless it was that the hon. member was desirous of inaugurating a new era in their proceedings. If that was the case, he should most cordially support the hon. member, but not to make fish of one Bill and fowl of another. They had had Bills for the benefit of various religious bodies and societies, municipalities, banks, and other corporations, and no objection had been taken to their being introduced without the formalities which were attached to private Bills, and why should there be any exception made in this instance? He failed to appreciate the nature of the hon. member's opposition.

THE SPEAKER: Although the Bill has the distinctive character of a private Bill, the Imperial Act under which our Legislature is constituted distinctly says that "it shall be lawful for the Governor "to transmit to the Council for its con- "sideration the draft of any such laws as "it may be desirable to the Governor to "introduce." Under these circumstances, it appears to me that, although the Bill is essentially a private Bill, it is within the province of His Excellency to send it to the House for its consideration, and, having done so, we are bound to receive it as such.

MR. BROWN said the question was a delicate one, and it placed members in an awkward dilemma. If the House agreed to the amendment of the hon. member for the Swan, it would be in conflict with the views entertained on the subject by His Honor the Speaker. No doubt the Bill was one of a private character, but it was equally beyond doubt that, according to the Imperial Act, the Governor had the right and the privilege to introduce such a Bill, without complying with the formalities prescribed in their Standing Orders. That being so, he felt inclined to vote in favor of the introduction of the Bill.

MR. SPEAKER: The question resolves itself into this—Has the Governor a right to introduce such a Bill, notwithstanding its private character? I cannot help thinking that he has.

MR. STEERE: It appears to me entirely contrary to the Standing Orders of the House.

MR. SPEAKER: If I am called upon to rule upon the Point of Order, I cannot rule otherwise than that His Excellency has the power to introduce the Bill.

MR. SHENTON: Who pays the fees?

MR. SPEAKER: That has nothing whatever to do with it. The Bill being introduced by the Government loses its character as a private Bill, and the formalities required to be observed in the case of private Bills are dispensed with.

Amendment, by leave, withdrawn.

Bill brought in, and read a first time.

PLATFORM AND WAREHOUSE ACCOMMODATION AT FREMANTLE.

MR. HIGHAM, in accordance with notice, asked The Honorable the Colonial Secretary, "Whether it is the intention "of the Government to provide increased "platform or warehouse accommodation "for the receipt, despatch, and protection "of general merchandize landed at or "shipped from Fremantle; if so, in what "way, and when." The hon. member said it was admitted on all sides that increased accommodation was wanted, and the Government had promised a deputation which waited on Governor Ord that something would be done in the matter; but nothing had been done that was of any practical use. As the jetty dues now amounted to three times what they were some few years ago, he thought the

public, and especially the mercantile community, had some claim upon the Government to have their goods protected, instead of being left as at present at the mercy of any adventurous pilferer.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said he was perfectly well aware of the necessity for improved accommodation which existed at Fremantle, but as no sum had been placed on the Estimates for carrying out such a proposal, and in view of the wish expressed on so many occasions by hon. members in that House—that the Government should adhere to the appropriations made by the House and not go beyond the Estimates, nothing could be done in the matter beyond what had been done. It was however competent for the hon. member to move an address praying His Excellency to place a sum on the Estimates for the purpose referred to. The Government could do nothing in the matter until that was done.

TRANSFER OF LAND ACT, 1874, AMENDMENT BILL.

Read a third time and passed.

DISTRICT ROADS ACT, 1871, AMENDMENT BILL.

IN COMMITTEE.

Clause 1—"It shall be lawful for the "Governor, upon the application of the "Local Board of any District, from time "to time to appoint what roads or parts "of roads previously surveyed and "marked out shall be main or minor "roads; and every such appointment on "the like application from time to time "to revoke; and every such appointment "shall be published in the *Government* "*Gazette*:"

MR. RANDELL moved that the words " or revocation " be inserted after the word appointment, in the sixth line.

Agreed to.

Clause 2—"Section 43 of 'The District "Roads Act, 1871,' is hereby amended "by inserting the words 'for at least— "'years,' in the second line, after the "word 'public,' and by omitting the "word 'committee,' in the third line of "the section, and inserting the words "'Local Board of the District in which "'such track is situate:'"

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said the section of the existing Act which it was proposed to amend enacted that "no track which has been in general use by the public shall be fenced across or otherwise blocked up unless the committee shall have recommended such a course to the Governor." It did not specify how long it was necessary a track should have been in use before the owner would be debarred from closing it, and therefore it was now proposed to fix a number of years before the public should have a prescriptive right to any track. It was also proposed that the recommendation to block up a track should emanate from the Local Board of the District in which such track was situate, instead of from the "committee." He was entirely in the hands of the House as to what number of years should be inserted in the blank space.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) suggested twelve years.

MR. S. H. PARKER thought twenty years would not be too long. That was the period of limitation within which the right of action as to real property was prescribed, and he thought the same principle ought to be applied here.

MR. STEERE considered that twenty years would be altogether too long a time. He did not think it should be more than ten years, at the utmost.

MR. BROWN thought that in the interests of the public the period should be reduced to seven years. It would be observed by the Act that no track was to be fenced across or otherwise blocked up, unless the Road Board of the District in which such track was situated had recommended such a course to the Governor, and it shall have received His Excellency's approval.

MR. S. H. PARKER said it appeared to him unwise to give the right to a person to close a track across a road unless it had been in use by the general public for as long a term as it was proposed the statute of limitation should run against the owners who did not occupy their lands. It appeared to him that the same principle should apply in the one case as in the other. It was inconsistent that, while a man should not forfeit his land by reason of non-occupancy until a period of twenty years had elapsed, he yet might forfeit a portion of it within seven or ten years.

Mr. STONE pointed out that whatever number of years they decided upon would not of itself render it legal for a man to block up a track. To do that, he would have to have recourse to common law proceedings. He should support the longer period—twenty years.

Mr. STEERE said a great deal depended on the meaning of the word "track." It was never meant to apply to a mere footpath.

The COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) thought it would be necessary to define what a "track" meant, within the meaning of the Act. As he understood it was proposed to refer the Bill to a Select Committee, the Committee might be asked to supply the definition.

Mr. BURGES considered that twenty years was quite short enough. It would be a source of great inconvenience to many people if certain tracks were to be closed up within a less space of time.

The ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said there was no more fertile source of litigation than rights created by prescription, and the more stringent the restrictions placed upon trespassers the better.

Mr. BURT said he quite agreed with the Acting Attorney General, and should support the longer period.

The COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) then formally moved that the word "twenty" be inserted in the blank.

Mr. STEERE moved, as an amendment, that the word "ten" be inserted.

Question—That the word proposed to be struck out stand part of the clause—put.

Committee divided.

Ayes	...	...	14
Noes	...	...	4
Majority for		...	10

Ayes.	Noes.
The Hon. R. T. Goldsworthy	Mr. Brown
The Hon. G. W. Leake	Mr. Carey
The Hon. M. Fraser	Mr. Crowther
Mr. Burges	Mr. Steere (*Teller.*)
Mr. Burt	
Mr. Grant	
Mr. Hamersley	
Mr. Higham	
Mr. Marmion	
Mr. Randell	
Mr. Shenton	
Mr. Stone	
Mr. Venn	
Mr. S. H. Parker (*Teller.*)	

Question—That the clause, as amended, stand part of the Bill—put and passed.

Mr. MARMION said that on the occasion of the second reading of the Bill he had given expression to the views he had long entertained on the question of local taxation for roads purposes, and intimated his intention of bringing forward some proposals, in Committee, for carrying that principle into operation. He had then pointed out to the House that when the District Roads Act was passed, the intention of the then Administration (Governor Weld's) in bringing it forward, and the intention of the Legislature in passing it, was to give the residents of country districts the right to manage their own roads, on the principle of local self-government, and that, in order to do this, they should impose local taxation to supplement the grants made for roads purposes out of the general revenue. This was merely an extension of the principle already in operation in towns, under the Municipal Institutions Act. The District Roads Act, however, left it an open question for each district to adopt the principle of local taxation, or not, as the local Boards deemed best; and although the Act had been in force for several years none of the Boards had shown any desire to act upon this principle. He thought it was high time that they should do so, and that the Legislature should take into consideration what would be the best steps to adopt with a view to enforce the provisions of the Act in this respect, by means of some gentle pressure in the first instance, to show the Boards the error of their way, and to lead them by degrees to adopt, voluntarily, this desirable principle of self-taxation. He had spoken on the subject to several hon. members of the House, and although there was a general feeling that the principle should be encouraged, there was considerable diversity of opinion as to the best means of putting it in operation. Some of the country members to whom he had spoken felt rather diffident in recommending that any system of local taxation should be made *compulsory*. On the other hand, the representatives of the residents in the towns saw no reason why the residents in the country should be exempt from local taxation any more than the dwellers in

towns. If he had his own way he would close the public purse entirely against those districts which refused to recognise the principle referred to, and refuse any assistance to them out of the general revenue for the maintenance of their roads. He did not, however, suppose that the feeling of the House would be with him to that extent, and he was quite prepared to modify his views so as to meet the support of the majority of hon. members. Some members were of opinion that the amount raised by local taxation should be supplemented by a proportionate amount from the general revenue. Others advocated the principle of assistance out of the public chest for the maintenance of main roads only, leaving it to be understood—and merely understood without resorting to compulsion—that the minor roads in the several districts were to be maintained out of local rates. But he was afraid, judging from past experience, it would be very little use leaving it to the option of the Boards. It was his intention to move three additional clauses to the Bill, endeavoring as far as possible to meet the wishes of all parties, or at any rate to steer clear of the objections which were likely to operate with hon. members in dealing with this question. The first clause which he proposed to introduce provided that no funds or moneys shall be granted from the Treasury after the 1st January, 1881, for the purposes of "The District Roads Act, 1871," to any local Board, unless such Board shall have availed itself of the power granted under the provisions of the twenty-ninth section of the Act to make and levy rates upon the annual value of all rateable property within the district. The fairness of this policy could not be gainsaid, for the same principle had been in operation in towns for many years, where the inhabitants were not only taxed to keep their roads in repair, but had also to contribute their quota of taxation to the general revenue, out of which the annual grants for keeping the country roads were paid. Numerically speaking, one half of the population of the Colony resided within the boundaries of the various municipalities where this principle of local taxation was recognised and acted upon; and he saw no injustice in extending the same principle to the other half. The ratepayers in the various municipalities were taxed to the extent of five, and in some instances seven and a-half, per cent. on the rateable value of property, for the purpose of conserving and of making their streets and footpaths, which were used by country teams and country visitors as well as by the local inhabitants; and then had to contribute to the general revenue for the sole benefit of country residents. This being the case he did not think the clause he had sketched out could be regarded as unjust or unfair in any way. The next clause which he proposed to introduce had been framed to meet the views of those who considered that the annual grants made out of the general revenue for roads purposes should be exclusively devoted to the maintenance of main lines of roads. The clause provided that on and after the 1st January next all moneys which shall be received by the various Roads Boards out of the Public Treasury shall be carried to a separate fund, to be expended in the construction and maintenance of the main roads of the district, or any bridge or ferry connecting the main roads. The third clause which he intended to move had been framed with the object of rendering the principle of local taxation less distasteful to the feelings of country residents than it might otherwise be. It provided that all moneys derived from local rates should be expended exclusively upon the minor roads of the district in which such rates were levied, for the purpose of keeping them in repair—which appeared to him a fair and reasonable condition to impose. He was not wedded to the wording or the details of these clauses, and would be prepared, in Committee, to consider any amendments that did not violate the principle which he advocated,—a principle which in the present critical condition of the public finances ought to commend itself to the acceptance of every patriotic colonist.

Mr. BROWN thought it would be better to report Progress, in order to afford hon. members an opportunity of seeing the new clauses in print, and of giving them that consideration which the importance of the subject deserved. He thought they were all desirous that the country districts should accept their fair share of the burden of taxation, for the

purpose of keeping up the roads of the Colony; and most hon. members would admit that this had scarcely been done hitherto. At any rate, none of the District Boards had carried out the principle of local taxation contemplated in the Act which gave the Boards their status among the institutions of the Colony. Up to the time when that Act was passed, a great deal of complaint had been heard that the country districts did not get their fair share of the revenue for their roads, and the Act was introduced to enable the inhabitants of those districts to construct and keep in repair their own roads, and in order that all sums of money devoted to that purpose from the general revenue, or otherwise, should as far as practicable be expended under local authority and supervision. For his own part, he was desirous to encourage, if not to force, the districts thus empowered to levy some amount of local taxation to supplement the Government grant. At the same time, it appeared to him that a most important, if not a most dangerous principle was involved in one of the clauses referred to by the hon. member for Fremantle, namely, that, under this proposed new system, the various district Boards *shall* keep their roads in repair—in other words, be compelled to do so by legislative enactment. The effect of that would be that, in default of their neglecting to keep any minor road in repair, they would be liable to an action at law, which he or any other individual, as one of the public, might institute against the Board. This, he thought, was a very important principle indeed, and he did not think the House should be asked to affirm it without having an opportunity of seeing the clause in print.

Mr. RANDELL suggested that, in the event of the principle of local taxation based upon the rateable value of property being adopted, provision should be made to enable any aggrieved property-holder to appeal against the assessment of his property. He was aware that no such provision was embodied in the present Municipalities Act, but the necessity for it had been forced upon the attention of the City Council at Perth, and he understood that the omission was to be remedied.

Mr. S. H. PARKER said the District Roads Act was evidently framed with a view to encourage local taxation for the purposes of local management of roads. The provisions of the Act clearly pointed to this conclusion,—that property should be rated and also duly represented on the Boards, for on reference to the Act it would be seen that the number of votes to which a man was entitled at the election of the members of these Boards was in proportion to the value of his property, so that the heavier a person was taxed, the more influence he had in the election of those on whom the spending of the rates devolved. The thirteenth section provided that every elector shall have a number of votes proportionate to the annual value of the property owned or occupied by him within the district, according to the following scale: £5 and under £10, one vote; £10 and under £25, two votes; £25 and under £50, three votes; and £50 and upwards, four votes. The previous clause again enacted that no ratepayer should be entitled to exercise the franchise unless he had paid his rates up to the very day of election; so that it was clear from the general tenor of the Act that the intention of its framers was that property should bear its fair burden of taxation, and that the heavier a man was taxed the more influence he should exert upon the election of the body entrusted with the expenditure of the money. But it appeared that the real effect of having property so strongly represented on the Boards was, that care was taken that it should not be taxed at all. This was the very reverse of what was in contemplation by the framers of the Act, for if the owners of property in the district did not contribute their fair share of rates in proportion to the value of their property he failed to see upon what principle they were entitled to exercise any proportionate influence at the elections. If Brown, whose property was valued at £50 a year, was in no way taxed beyond what Jones, whose property was only worth £5 a year, was, he could not understand what right Brown had to four votes while Jones was limited to one. Surely if property was not to be taxed at all, one man's vote was as good as another's. It had always struck him as most unfair that, whilst the inhabitants in the towns were heavily taxed for the maintenance of their roads—in Perth the taxes were

7½ per cent.—the inhabitants of the country districts were free from such taxation. It must be borne in mind that the population of Perth alone was fully one-fifth in number of the whole population of the Colony, and that the citizens were therefore taxed in that proportion as regards the general revenue, out of which the grants for the various Roads Boards throughout the Colony were made. Surely country people had no right to have their roads kept up at the expense of the residents of the towns, which to a great extent was the case at present. He did not intend at this stage to say anything with reference to the provisions of the clauses proposed to be added to the Bill by the hon. member for Fremantle; he merely wished to express his acquiescence in the principle involved. He did not think, however, that they should make it compulsory upon the Boards to impose local taxation, but that an effort should be made, by means of legislation, to induce them to put the principle in practice, and to show them that it would be for their good if they did so. He thought this might be done if the House agreed to vote out of the general revenue of the Colony say double or treble the amount raised in each district by means of local rates or direct taxation. That appeared to him to be about the fairest way to meet the object in view.

MR. VENN said he had always been under the impression until now that it was the country that kept the towns, and not the towns the country. But the views expressed by the hon. member for Perth had completely upset his ideas on that point, and it appeared now that so far from the residents of the country districts—the farmers and the wool growers and the timber-getters—providing their share towards the general revenue, these people were dependent upon the inhabitants of the towns for the maintenance of their roads. This was certainly quite a novel view of the matter, and completely upset all his previous notions of political economy. It appeared to him a somewhat significant fact that, although the District Roads Boards had been in existence for some nine or ten years now, and although the members serving upon these Boards were regarded, as a rule, among the most intelligent and well-informed class of people in the district, in no single instance had the principle of local taxation been recognised or acted upon.

Progress was then reported, and leave given to sit again on Wednesday, for the consideration of the following new clauses proposed by Mr. Marmion:—

"No funds or monies shall be granted "from the Public Treasury after the 1st "January, 1881, for the purposes of 'The "District Roads Act, 1871,' to any Local "Board of any District, unless such "Board shall have availed itself of the "powers granted to it by the 29th clause "of the aforesaid Act, of levying a rate "or rates upon the annual value of all "rateable property within such District."

"All monies which shall be received "after the 1st day of January, 1881, by "the Local Board of any District from "the Public Treasury shall be carried to "the account of a separate fund, to be "called the 'Main Road Construction "Fund,' and be expended by the Board "in and upon the maintenance of main "roads, or of some or any bridge or "ferry within the District which shall "be on such main road, or connect any "part of the same with any other part "thereof, whether within or without the "District."

"The Local Board of every District "shall, and they are hereby required, "with and out of the amounts received "from time to time from rates and tolls, "or either of such sources, to repair and "to maintain and keep in good repair all "minor roads within their District, and "all bridges and ferries thereupon, or "connecting any parts of the same with "other parts thereof within the Dis-"trict."

MESSAGE (NO. 3) FROM HIS EXCELLENCY THE GOVERNOR.

MR. SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

"The Governor forwards to the Honor-"able the Legislative Council the Report "of the Commission appointed by his "predecessor at the request of the Legis-"lative Council to report on the Pearl "Shell Fisheries of the Colony.

"Government House, Perth, 6th "August, 1880."

MESSAGE (NO. 4) FROM HIS EXCELLENCY THE GOVERNOR.

Mr. SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

"The Governor informs Your Honorable House that he has this day assented, in Her Majesty's name, to the undermentioned Bills passed by the Legislative Council during the present Session of the Legislature:—

"3. '*An Act to amend 'The Police Ordinance, 1861.*'

"4. '*An Act to repeal certain portions of 'The Public Officers Act, 1879' (43rd Vict., No. 1).*'

"Government House, Perth, 6th August, 1880."

MESSAGE (NO. 5) FROM HIS EXCELLENCY THE GOVERNOR.

Mr. SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

"The Governor has received the Addresses of Your Honorable House, No. 5, of the 28th July, and two unnumbered ones, dated 2nd instant.

"The papers asked for in Address No. 5 refer to a case *pendente lite*, and cannot, therefore, be furnished.

"The additional correspondence relative to the Roads Loan will be laid on the Table at an early date; as also the correspondence between the Government and the inhabitants of Bunbury and the Vasse, on the subject of the Coastal Steam Service.

"Government House, Perth, 6th August, 1880."

DESTRUCTIVE INSECTS AND SUBSTANCES BILL.

The Order of the Day for the further consideration of this Bill in Committee being read,

The COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) moved that the Order be discharged, and the Bill be referred to a Select Committee, such Committee to consist of Mr. Burges, Mr. Grant, Mr. Venn, Mr. Crowther, and Mr. Stone.

Agreed to.

WINES, BEER, AND SPIRIT SALE (CONSOLIDATION) BILL.

The House then went into Committee for the further consideration of this Bill.

Clauses 1 to 11 agreed to, *sub silentio*.

Clause 12—"A temporary license shall authorise the licensee, being also the holder of a publican's general license, or the holder of a wine and beer license, or the holder of a wayside house license, to sell and dispose of liquor at any fair, races, etc., during the continuance of such public amusement:"

Mr. MARMION pointed out that, according to the interpretation clause, the word "liquor" meant any spirituous or fermented liquor of an intoxicating nature; and the clause above read empowered the holder of a wine and beer license—who was not ordinarily entitled to sell spirituous liquors—to dispose of the same under a temporary license. This appeared to him inconsistent, and also unfair towards the holder of a publican's license, who had to pay £40 or £50 for his license, whereas the holder of a wine and beer license only paid £5.

Mr. BURT said that the clause was exactly the same as it was in the existing Act. The twenty-seventh clause provided that these temporary licenses were to be granted subject to such conditions as the licensing magistrate deemed fit.

Mr. MARMION was aware that the clause was a mere reprint of the clause which had been in operation hitherto; but that was no reason why it should not be amended. On reference to the form of temporary license prescribed in the schedule, he noticed that the clause was inconsistent with the terms of such license. Whereas, according to the wording of the clause, the holder of a wine and beer license (who was also the holder of a temporary license) was entitled to sell and dispose of any sort of liquor, spirituous or otherwise,—the form of temporary license given in the ninth schedule only authorised the holder to exercise the privileges of the license under which he ordinarily traded. He would therefore move that the words "sell and dispose of liquor" be struck out of the above clause, and the words "exercise the privilege of his license" be inserted in lieu thereof.

Agreed to, and clause amended accordingly.

Clause 13.—Effect of an Eating, Boarding, or Lodging House Keeper's License:

Agreed to.

Clause 14.—Effect of a Wayside House License:

MR. MARMION called attention to the proviso at the end of this clause, empowering the licensing justices to insert a clause in any wayside license prohibiting any liquors from being taken off the premises, excepting liquor sold to *bonâ fide* travellers. He thought this provision was calculated to work some hardship, for while one license-holder in a district might be permitted to allow liquor to be taken off his premises, another license-holder in the same district might be denied that privilege.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) pointed out how desirable it was that the privilege referred to should be curtailed in some localities, such as the neighbourhood of timber stations and other places where a large number of men were employed. If the liquor sold at these wayside houses were good wholesome liquor, it might be, like truth, of value, if distributed; but as most of the liquor disposed of at these houses consisted of a decoction of blue stone, tobacco, with some alcoholic liquid, he thought it very desirable that the sale and consumption of such villainous stuff should be as much circumscribed as possible. He once drank a glass of brandy (so called) at one of these wayside inns, and the most alarming symptoms followed: but the evil happily was confined to himself, whereas if he had been allowed to take the whole bottle off the premises, and, in the exuberance of his generosity, had "treated" any friends he might have met on the road, the result might have been very serious. The clause as it stood was intended to reduce a nuisance and an evil to a minimum.

The clause was then adopted.

Clauses 15 to 47 agreed to, without discussion.

Clause 48.—"If any holder of a Publi-"can's General License, or a Wayside "House License, or Wine and Beer "License, shall without reasonable cause "refuse to receive a traveller as a guest "into his house, or to find any such "traveller victuals and lodgings, or to "receive the horse or horses or other "beast or beasts of burden of a traveller "and to provide such horse or horses or "beast or beasts as aforesaid with suffi-"cient provender and water, whether the "owner or person in charge thereof lodge "in his house or not, every such licensed "person shall for every such offence for-"feit and pay any sum not exceeding "Twenty pounds, upon conviction before "any one or more Justice or Justices of "the Peace:"

MR. HIGHAM pointed out that the provisions of this clause only referred to such licensed houses as were "upon any line of road" in the Colony. It did not refer to houses in town, or such as might happen to be a little distance from "a line of road." He thought it would be better to strike out those words, and he would therefore move, as an amendment, that they be expunged.

MR. BURT said, as regards licensed houses in towns, it might not be fair, in all instances, to require the landlords to receive a traveller's horses and beasts, and to find them with sufficient provender and water, when at the same time the person in charge thereof did not stay at the hotel.

MR. HIGHAM said if the provision was fair in the case of one class of licensed houses it was in the case of others, and he failed to see why any distinction should be made.

The words proposed to be struck out were then expunged, and the clause as amended agreed to.

Clauses 49 and 50 agreed to, without discussion.

Clause 51.—"If any holder of any "license under this Act shall take or "receive from any person whomsoever, "in payment or in pledge for liquors, or "for any entertainment whatsoever sup-"plied in or out of his or her house or "premises, any article of clothing or "slops, or any tool or other article or "thing except metallic or paper money, "or bank cheques, such occupier or "possessor of a public house so offending "shall, upon conviction before any one "or more Justice or Justices of the "Peace, forfeit and pay any sum not "exceeding £20, independently of any "other punishment arising out of any

"other law or Ordinance now or here-"after to be in force in the Colony:"

Mr. BURT said that, as he had already mentioned when moving the second reading of the Bill, the introduction of the words "bank cheques" as a legal tender for drinks was a somewhat important innovation, and involved a principle; and as the object of the present Bill was merely to consolidate the existing enactments dealing with licensed houses, he did not wish to press the House to accept those words in the clause, and he would be prepared to agree to their omission.

Mr. BROWN looked upon the introduction of these words as of great importance, and a great improvement. The law as it stood at present was daily infringed, and no notice was taken of it whatever. It appeared to him absurd to have such a provision on the statute book as a dead letter, and he thought it would be much better to retain the words in the clause, and thus acknowledge bank cheques as a legal tender in payment for hotel "scores."

The ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said it was not an evil that persons like the hon. member for Geraldton should pay their hotel bills by means of bank cheques, but it was an intolerable evil that public houses should become a medium for the disposal of forged and stolen cheques by unprincipled scoundrels, and it was with a view to interpose some check upon the nefarious designs of these gentry that the law was framed as it stood at present. The present Bill, as had been pointed out by the hon. member in charge of it, was one merely introduced for the purpose of consolidation, but the introduction of the words "bank cheques" involved a very important principle. If magistrates and the police would exercise a reasonable discretion, a very great number of persons who now figured at the Supreme Court for unlawfully passing cheques at public houses would not appear there. He thought the public ought to continue to receive such benefit and protection as the law in its present form afforded them, and that no undue facilities should be provided for the disposal of cheques dishonestly obtained.

Mr. VENN would support the clause as it stood. Cheques were now received by publicans as a matter of course, and it would be a source of great inconvenience if the law as it stood at present were to be strictly carried out. He did not think the convenience of the honest majority should be sacrificed to meet the case of a few dishonest rogues.

Mr. MARMION said it was well known to the authorities that the law as regards payment by cheques was broken openly every hour of the day—in fact, it was an absurdity, for there was nothing to prevent a publican changing a cheque for a customer, and then receiving payment out of the change. He thought it would be an improvement to allow the words to remain in the clause.

Mr. CROWTHER was of the same opinion. As the law stood at present, if he happened to pay his hotel bill (as he always did) with a cheque, and a policeman happened to see him do it, and laid an information against the landlord, the magistrate had no option but to mulct the publican for what was a custom of daily, of hourly, occurrence all over the Colony. The thing was absurd.

The clause was then agreed to, as printed.

Clauses 52, 53, 54, and 55—agreed to, *sub silentio*.

Clause 56.—"If any person whomso-"ever, licensed or unlicensed, shall sell, "supply, or give any fermented liquor or "any mixed liquor part whereof is fer-"mented in any quantity whatsoever to "any aboriginal native of Western Aus-"tralia for himself or for any other "person, the person so selling, supplying, "or giving the same shall for every such "offence forfeit and pay (over and above "any penalty which may be incurred for "the sale of such liquors without a "license) a penalty of Five pounds, to be "recovered before any one or more "Justice or Justices of the Peace. Pro-"vided always that the prohibition con-"tained in this section shall not extend "to the giving or supplying of fermented "liquor by unlicensed persons to aborig-"inal natives in their service:"

Mr. BURT moved, To insert between the words "any" and "fermented," in the third line, the words "spirituous liquor or mixed liquor part whereof is spirituous in any quantity whatsoever or."

Agreed to, and clause, as amended, passed.

Clause 57.—"Any person holding a "Publican's General License, a Wine "and Beer License, or a Wayside House "License under this Act, who shall "knowingly or wilfully permit any "aboriginal natives to remain on or loiter "about his licensed premises, shall on "conviction thereof forfeit and pay for "the first offence the sum of Two pounds, "and for every subsequent offence the "sum of Five pounds:"

MR. BROWN pointed out that, if the clause were carried out strictly, it would be a source of considerable inconvenience to settlers and others who were travelling with native servants, who as a rule obtained their meals in the kitchen of the public house or hotel where their masters stayed at. According to this clause, a publican was liable to be fined for allowing these natives to remain on his premises.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said it would be impossible to provide for every contingency. Magistrates would surely exercise some discretion in cases such as those referred to by the hon. member, and in which the law would only be broken as regards the letter, and not in its spirit.

The clause was then agreed to.

Clauses 57 to 88 agreed to, without discussion.

Schedules agreed to.

Preamble and title agreed to.

Bill reported.

SANDALWOOD BILL.

The Order of the Day for the further consideration of this Bill in Committee being read,

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) moved that the Order be discharged, and the Bill be referred to a Select Committee, such Committee to consist of Mr. Crowther, Mr. Shenton, Mr. Hamersley, Mr. Venn, Mr. Marmion, and, by leave, Mr. Grant and Mr. Randell.

Agreed to.

The House adjourned at half-past ten o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 9th August, 1880.

Supplementary Votes for 1880—Court of General Sessions at Bunbury—Salary and Allowances of officers of the Works and Railways Department—Warehouse accommodation at Bunbury—Expenses of Superintendent of Roads per *Rob Roy*—Real Property Limitation Bill: third reading—Perth Church of England Collegiate School: second reading; referred to select committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

SUPPLEMENTARY VOTES FOR 1880.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy), pursuant to notice, moved, "That the House resolve itself "into a Committee of the whole, to con- "sider certain expenses requisite to be "incurred in certain departments, over "and above the sum voted in the Appro- "priation Act for the current year." The hon. gentleman said the course adopted with reference to this matter was a somewhat unusual one, but he felt sure that the feelings of the House would be with him when he explained the reason for its adoption. That reason simply was, that the votes appropriated by the House for the services in question had proved inadequate, the actual expenditure having exceeded the estimated expenditure. The first item and the heaviest item to which he would call the attention of the House was in connection with the Postal and Telegraph Department—"Conveyance of Inland Mails, £3,000." This might appear a large amount in excess of the sum appropriated for the service, but when he informed the House that they had not taken into account the receipts which were likely to be derived, in respect of the conveyance of passengers and parcels, and which were estimated at about £2,000, hon. members would see that the actual excess which they were asked to sanction was not more than about £1,000. There was also a small item of about £25 required beyond the vote for the year, in connection with the renting of buildings for country post offices; and a further amount of £50 2s. 6d., being our quota—in excess of the sum estimated—towards the subsidy to the Eastern Extension Telegraph Co. for the duplication of the