As hon. members were aware, the memorial adopted by the Council on the subject last year had been duly forwarded to the Colonial Office, and instructions had been received from the Secretary of State requesting the Government to do all that was considered desirable for the purpose of extending the control of the Legislature over the public finances. This despatch, he believed, had given general satisfaction to hon. members, and the Government, in pursuance of it, had already presented a Bill to the House to carry out the object in view. What necessity, therefore, was there for placing this protest on record? He intended to oppose it—even if he stood alone.

Mr. BURT: Was not the hon. member himself a member of the Select Committee who prepared this report?

Mr. BROWN: Yes, but I never approved of it.

Mr. STEERE: The hon. member never dissented from it.

Mr. BROWN: I had no time to enter my protest in writing.

A division being called for, the resolution was agreed to, the numbers being—

Ayes	... ...	12
Noes	... ...	4
Majority for	...	8

Ayes.	Noes.
Lord Gifford	Mr. Burges
The Hon. A. C. Onslow	Mr. Hamersley
The Hon. M. Fraser	Mr. Marmion
Mr. Burt	Mr. Brown (*Teller.*)
Sir T. C. Campbell	
Mr. Higham	
Mr. S. S. Parker	
Mr. Randell	
Mr. Shenton	
Mr. Stone	
Mr. Venn	
Mr. Steere (*Teller.*)	

Resolution reported.

The House adjourned at a quarter past three o'clock, p.m.

LEGISLATIVE COUNCIL,

Monday, 22nd August, 1881.

Brands Bill, 1881: in committee—Administration of Estates Bill, 1881: further considered in committee—Appropriation Bill (Supplementary), 1881: third reading—Municipal Institutions Act, Amendment Bill: motion for second reading—Excess Bill, 1879: in committee—Adjournment.

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

Prayers.

THE BRANDS BILL, 1881.

The ATTORNEY GENERAL (Hon. A. C. Onslow), before moving the House into Committee to consider the Brands Bill, said it would be observed from the report of the Select Committee to which the Bill had been referred, that several alterations had been made, and some new clauses added, to the original Bill. The alterations, however, were principally of a verbal character, and the new clauses which had been introduced dealt with the subject of earmarking, the Committee recommending that earmarks should be registered as well as brands. This, he might say, was a somewhat novel provision, but the Select Committee were strongly of opinion that the circumstances of the Colony rendered it imperative that the owners of cattle and sheep should be allowed to register their earmarks as a means of affording further protection against dishonest persons. The Committee had considered the question with the greatest possible care, inasmuch as it imported into the Bill a principle which he believed he was right in saying did not exist in any of the other colonies; but, regard being had to the peculiar circumstances of this Colony, the Committee strongly advised the adoption of the principle here, and consequently the Bill as amended provided for the registration of earmarks. This, in reality, was the one main point of difference between the present Bill and the Bill as originally printed. Another less important alteration to which he might be allowed to refer was this: under the law as it now stood, every owner of a cow or a horse is obliged to have a registered brand; if he has not, he submits himself to certain pains and penalties—though, as a matter of fact, he believed the law in this respect had rarely been acted upon, and many a man was in possession of a horse, or a cow, without having ever registered a brand in respect of such horse or cow. Under this Bill, as amended, if a person bought a horse or a cow that was not marked with a registered brand, it would be his duty to register himself as the owner of a brand in respect of such animal, and to brand it accordingly. But if the horse or cow was already marked with a registered brand, the purchaser need not trouble himself to have a brand of his own registered.

The House then went into Committee to consider the Bill in detail.

Clause 1.—Act to come into operation on the 1st January, 1882:

Agreed to.

Clauses 2 to 8.—Re-enactment of the provisions of existing laws:

Agreed to, *sub silentio*.

Clause 9.—Unbranded cattle and horses may be destroyed, and the owners subjected to a penalty not exceeding £5 per head:

MR. BURGES considered this clause altogether too severe. It was quite enough penalty to destroy a man's cattle or horses, without fining the owner as well.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said the clause merely re-enacted the law as it now stood.

MR. BURGES: Then all I have got to say is—the law is too severe. I shall move, as an amendment, that the words "and the owner may be subjected to a penalty not exceeding £5," be struck out.

This was agreed to.

MR. GRANT said he had an amendment to move in a previous part of the clause. He thought the penalty for not branding cattle should not apply to stock under two years old—instead of one year, as provided in the Bill.

THE CHAIRMAN OF COMMITTEES said it was too late for the hon. member to move his amendment now. It was not competent for the Committee to go back to a part of a clause antecedent to that in which an amendment had already been moved. The hon. member, however, could accomplish his object by moving the recommittal of the Bill hereafter.

The clause was then agreed to as amended.

Clause 10.—Penalty for hunting stock without consent or authority:

Agreed to without discussion.

Clause 11.—Justices may authorise any person to drive in any unbranded cattle above one year old, and unbranded horses above two years:

MR. GRANT moved, as an amendment, that the clause should only apply to cattle above two years old, the same as horses.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) pointed out that if the amendment were carried it would render the clause inconsistent with the provisions of the preceding clauses.

MR. GRANT said he simply moved the amendment as a test motion; if carried, he would, upon the recommittal of the Bill, move other amendments to the same effect.

MR. STEERE presumed that the great object of the Bill was to render it compulsory upon the owners of stock to brand them, and he thought it was very desirable that they should be made to do so as early as possible. The law very properly drew a distinction in this respect between cattle and horses. While it required the owners of cattle to brand them before they were above one year old, it did not require the owners of horses to have them branded until they were two years old, and the reason for this was obvious—it was much more difficult to hunt horses in than cattle.

MR. GRANT differed with the hon. member on that point. In many districts it was more difficult to drive in cattle than horses, and it was for that reason that he wished to have the Bill altered in this respect.

The amendment was then put, and negatived, upon a division, the numbers for the original motion being—

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

AYES.	NOES.
The Hon. A. C. Onslow	Mr. Burt
The Hon. M. Fraser	Mr. Higham
Mr. Brown	Mr. Marmion
Mr. Burges	Mr. Grant (*Teller.*)
Mr. Crowther	
Mr. Hamersley	
Sir L. S. Leake	
Mr. S. S. Parker	
Mr. Randell	
Mr. Shenton	
Mr. Steere	
Mr. Stone	
Mr. Venn	
Lord Gifford (*Teller.*)	

The amendment was therefore negatived.

Clause 11 agreed to.

Clause 12.—Beasts known to belong to another, and unavoidably driven away, to be returned to the run or herd from which they were so driven:

MR. BURT thought the word "beasts" could hardly be considered to apply to horses, and he would suggest the substitution of the word "stock."

The ATTORNEY GENERAL (Hon. A. C. Onslow) said the clause was word for word the same as in the existing Act, and, although he did not like to take upon himself to improve upon the language of previous legislation, he must admit that the word "beast" was a somewhat vague term. He had even heard it applied to two-legged animals.

Mr. STONE: Does not that very fact show the necessity for employing some more definite term?

The ATTORNEY GENERAL (Hon. A. C. Onslow): Possibly so. There can be no objection to substituting the word "stock," if the hon. member wishes it.

The matter then dropped, and the clause was agreed to.

Clauses 13 and 14.—Relating to impounding and selling unbranded stock:

These clauses, which simply re-enact the existing law on the subject, were agreed to without comment.

Clause 15.—Owners of sheep may register their fire brands and wool brands:

Mr. MARMION asked why the provisions of this clause as regards registering sheep brands were permissive, whereas, as regards the registration of brands for horses and cattle, the compulsory principle was adopted?

The ATTORNEY GENERAL (Hon. A. C. Onslow) said that, although under the existing law a sheep-owner could register his brands, the mere fact of his doing so afforded him no protection. His sheep might be stolen, and—beyond the mere fact that the brand afforded evidence of ownership—he received no benefit whatever by reason of his brand being registered. But, if this Bill became law, any sheep-owner who registered his brands, and paid the required fee for doing so (10s.), would get the benefit of the Act, in any action which he might take with a view to establish his ownership.

Mr. BROWN said the reason why the Select Committee did not consider it desirable to make it compulsory upon owners to register sheep brands was because of the much greater difficulty attendant upon branding sheep than cattle, by reason of their greater number. Moreover, if it were rendered compulsory upon every sheep-owner to register his fire brands, it would be impossible to find a distinct brand for every sheep-owner, and this might lead to much confusion and litigation. It might be said—why not compel them to register their wool brands? Simply because the application of pitch for the purpose of branding the wool detracted from the value of the wool in the English market. For these reasons, the Committee thought it would be inadvisable to make the registration of sheep brands compulsory, like branding stock. At the same time, if sheep-owners chose, voluntarily, to go to the trouble of registering their brands, he thought it was but right that the law should afford them some protection, in the manner here proposed, namely, by preventing any other sheep-owner from using the same brand.

The clause was then agreed to, as also the two following clauses—relating to the form of application to be adopted when applying for a certificate of registration; also empowering the Registrar to require an applicant to alter his brand, if it is found to be similar to one already registered.

Clause 18.—"It shall be lawful for any "owner or owners of cattle and sheep to "make application to register an earmark "for such cattle and sheep, or a separate "earmark for such cattle, and a separate "earmark for such sheep, the description "of which mark or marks shall be "approved of by the Registrar, who may "call upon such owner or owners to "make such alteration in the same as he "may think necessary; provided, always, "that when any earmark has been registered in any district for any particular "description of such stock as aforesaid, "it shall not be lawful to register the "same earmark, for the same description "of stock, in the same or contiguous "district to that in which such earmark "has been registered; provided, always, "that such district shall be construed to "mean the district of a Resident or "Police Magistrate as at present defined "by the *Government Gazette*:"

The ATTORNEY GENERAL (Hon. A. C. Onslow) said they had now come to that portion of the Bill which was likely to form the only real battle ground in dealing with the measure, namely, the introduction of the principle of registration as regards earmarks—an entirely novel principle, he believed, and one

which, so far as he was aware, had never been introduced into the legislation of any other colony. But, as he had already said, the members of the Select Committee to whom the Bill had been referred, had, after very careful consideration, arrived at the conclusion that the principle was a desirable one to be introduced here, in view of the peculiar circumstances of the Colony, and the great facilities which existed for sheep and cattle stealing. If it was the wish of the House that the consideration of this section of the Bill should be deferred until hon. members had been afforded further opportunity for considering the question, he had no desire to press the Committee to proceed with the Bill that evening.

MR. MARMION thought it would be better not to limit the application of the clause "to the same or a contiguous district," as was here provided. It appeared to him it would be advisable to enact that, when an earmark had been registered in one district, it should not be lawful to register the same mark in any other district throughout the Colony, and not merely in the "same or a contiguous district." Sheep very often travelled long distances, and it might happen that the same earmark had been registered in more than one district, which, obviously, would lead to confusion.

MR. BROWN said, if this clause was to be regarded as the battle-ground upon which the Bill was to be fought out, he certainly hoped the victorious party would be that which gave its adherence to the principle here introduced. He regarded this clause as a most desirable one—even more so than that providing for the registration of fire brands and wool brands. As a general rule, when any dispute arose as to the ownership of sheep, the dispute was settled not by the brands alone, but by the brands in conjunction with the earmark; indeed, he might venture to say that in nineteen cases out of twenty the earmark alone was looked upon as the most conclusive and satisfactory proof of ownership. Yet, in the present state of the law, sheep-owners were in no way protected as regards their earmarks, and this Bill sought to place them in the same position in that respect as they were in the matter of registering brands.

MR. MARMION did not think the clause would be of much value unless it made the registration of earmarks compulsory.

The clause was, however, agreed to, as also the five following clauses—relating to the fees payable for registering earmarks (10s., if the same earmark is to be used for both cattle and sheep, and 7s. 6d. if a separate earmark is required); and to the transfer and cancellation of brands (for which a fee of 2s. 6d. is to be charged).

Clause 24.—Registrar to keep a brand directory, and separate books of registration for brands and earmarks, in respect of cattle, horses, and sheep:

MR. BURT asked if it was intended to give the Registrar any additional salary for keeping all these books?

THE ATTORNEY GENERAL (Hon. A. C. Onslow): No.

The clause was agreed to.

Clause 25.—Quarterly statements of registered brands to be published in the *Government Gazette*:

Agreed to.

Clause 26.—Resident Magistrates to keep copies of the *Gazette* for the inspection of any person desirous of making copies or extracts therefrom, which may be permitted upon payment of one shilling:

MR. BURT thought it was preposterous to charge a man a shilling for looking at the *Government Gazette*. Why, that was more than the whole blessed thing was worth. He never heard of such an imposition. He would move that the words "upon payment of one shilling" be struck out.

THE COLONIAL SECRETARY (Lord Gifford) said if the hon. member knew the trouble which people caused when they came to inspect the brands registry, he would not begrudge the payment of a shilling for the permission to make copies or extracts out of the *Gazette*. Moreover, it should be borne in mind that the present Bill imposed a great deal of extra labour upon the Registrar.

MR. BROWN felt very much inclined to move that the charge should be half a crown, instead of a shilling. He certainly failed to see upon what grounds it was moved to abolish the fee altogether. Why should they depart, as regards this Bill, from the principle which obtained

as to charging a fee for any search made among the records of other departments?

Mr. CROWTHER thought there were quite enough charges under the present Bill without imposing a fee of one shilling for merely allowing a man to have a look at what in the country districts was designated "the rag,"—namely, the *Government Gazette*.

Mr. BURT said the *Gazette* was public property, and ought to be open for public inspection free of charge. Whoever regarded it in any other light than public property? Did they ever hear of anybody subscribing to it? He never did.

The proposal to strike out the words "upon the payment of one shilling" was negatived, and the clause agreed to.

Clauses 27 and 28.—Owners of brands registered at the time of passing this Act may apply for re-registration of brands, and, unless they do so, their brands may be cancelled:

Agreed to without discussion.

Clause 29.—No person, other than the owner of a registered brand at the time of this Act coming into operation, shall make application to be registered as the owner of such brand until after the expiration of six months from the passing of the Act:

The ATTORNEY GENERAL (Hon. A. C. Onslow) pointed out that this clause had been introduced in order to prevent people taking advantage of any brands now registered, and applying to have similar brands registered in their own names, to the loss and inconvenience of the present owner. For instance, a sheep-owner having 20,000 sheep branded with a particular mark, might, unless some such clause as this is introduced, find himself forestalled by another person applying to have the same brand registered in his own name, which, being done, would necessitate the owner of the 20,000 sheep aforesaid to have them all re-branded with another mark. This clause gave the owners of brands already registered six months time within which to apply to have their brands re-registered, and, unless they availed themselves of the provisions of the clause within that time after the passing of the Bill, it would be competent for any other person to apply to be registered as the owner of such brand or brands.

The clause was adopted without discussion.

Clause 30.—Owners of horses or cattle using unregistered brands, shall, for every such offence, incur a penalty not exceeding £50:

Agreed to *sub silentio*.

Clause 31.—Any person who shall brand any stock in contravention of this Act shall, for every such offence, forfeit and pay any sum not exceeding £20:

Mr. VENN moved that the word "wilfully" be inserted before the word "brand." A man might inadvertently contravene the provisions of the Act in some respect, and it would be a great hardship that he should be mulcted in a heavy penalty, for what may have been mere inadvertence.

Mr. BROWN opposed the amendment on the ground of the difficulty of proving that a man had "wilfully" acted in contravention of the Act,—although there could be little or no doubt that he had acted with a felonious intent. The penalty provided was "any sum not exceeding £20"—it might be only half-a-crown. If the accused person were able to satisfy the magistrate that he had acted in ignorance, or through sheer inadvertence, and that there was no felonious intent, he was sure there was not a magistrate in the Colony who would fine such a man more than a shilling, or some nominal amount. At the same time he thought it was very desirable that provision should be made for inflicting a much heavier penalty, which should bear proportion to the gravity of the offence committed.

The amendment was negatived, and the clause put and passed.

Clauses 32 and 33.—Persons branding stock not their property may be imprisoned for any term not exceeding two years; and any person wilfully blotching or defacing any registered stock brand to be liable to a penalty not exceeding £50, or imprisonment for any term not exceeding six months:

Agreed to.

Clause 34.—Any person who shall wilfully brand or earmark any sheep with a brand or earmark of a similar design to any registered brand or earmark, shall for every sheep so

branded forfeit a penalty not exceeding £10:

MR. BURT pointed out that a sheep-owner at Albany might happen to choose a brand or earmark of a "similar design" to one which might be registered at Roebourne. The small man at the former place might set himself up, and register himself as the owner of a similar brand or earmark to that with which the big man at the latter place had his 20,000 or 30,000 sheep already branded, thus necessitating the latter to alter the brand or earmark upon all these sheep.

MR. VENN said that would be the big man's own fault, in not availing himself of the protection afforded him under the present Bill, by registering his brands and earmarks.

MR. MARMION asked upon whom would the onus of proof rest, in respect of any prosecution under this clause, as to whether the earmarks were made before the passing of this Bill, or afterwards?

THE ATTORNEY GENERAL (Hon. A. C. Onslow): The onus of proof would lie with the prosecutor who must prove his case.

MR. MARMION thought the clause was one which required further consideration, and he would move that it be, for the present, postponed.

This was agreed to.

Clause 35.—Letter S not to be used as a brand for sheep, except as required under the Scab Act:

Agreed to.

Clause 36.—Any person wilfully or maliciously destroying, defacing, or altering any earmark, or who shall crop or cut more than one third of the ear of any sheep, shall, upon conviction, incur a penalty not exceeding £50 for every sheep so treated:

MR. BURT moved some verbal amendments in this clause, in order to render it more explicit, and the clause, as amended, was agreed to.

Clauses 37 to 41 (the remaining clauses of the Bill), relating to the powers of inspectors, summary procedure, and the right of appeal, were adopted without discussion.

The consideration of the schedules (and of clause 34) was postponed until Wednesday.

ADMINISTRATION OF ESTATES BILL.

This Bill was further considered in Committee.

Clause 6,—providing that the real estate of persons who die intestate shall be distributed among the surviving members of their family in the same manner as personal property—was reverted to.

MR. STONE—having animadverted on the inconsistency of hon. members agreeing to the second reading of the Bill, and now strenuously opposing its fundamental principle, as involved in the clause now before the Committee,—said, certain objections had been raised to the Bill the other day by his learned friend the Attorney General—objections which, if they had been urged against the introduction of such a measure in England, would have had much weight, but which he (Mr. Stone) could in no way accept as any argument against the introduction of the Bill, as applicable to the circumstances of this Colony. If hon. members would take a practical view of the question, instead of regarding it from a merely sentimental standpoint, he did not think they would find that it presented any features calculated to cause any serious apprehension or alarm, as to its probable revolutionary effect upon our social system. As had already been pointed out, the circumstances of society as constituted in a Colony like this were entirely different to circumstances existing in a country like England, where intestacies with reference to landed property were almost unknown. Some hon. members might think that, if the principle contemplated in the clause now before the Committee were adopted, as regards intestate estates, efforts might hereafter be made to extend the same principle to entailed estates; but he would point out that, although in England the law of entail was largely availed of, in order to ensure an estate descending to a particular heir, the doctrine was one which in this Colony was hardly ever acted upon. In ninety-nine wills out of every hundred there was no such thing as entail provided for—he believed there were only two instances on record since the Colony was founded. The principle involved in this clause was, practically, in operation already, for, in the vast majority of cases, the general practice among people who

did not die intestate was to bequeath their property in such a way that it shall be equitably distributed among the surviving members of the family. The Bill, in fact, in the case of people who died without making a will, would simply give effect to what would have been the wish of the intestate himself as to the distribution of his property. If a man wished his real estate to descend to the eldest son, or to any other particular heir, all he had to do was to make a will or a settlement to that effect. The measure was one which he might say would chiefly, if not entirely, affect small property-holders, who died intestate —men who, by their own industry and exertions, assisted by those useful institutions, building societies, were enabled to become owners of a small piece of property, which constituted their whole possession in the world, and who, if they had taken the precaution to have made their will, would, as he had already said, in ninety-nine cases out of every hundred have bequeathed the property in equal shares among all the survivors of the family, rather than let it descend to one particular member, to the exclusion of all the rest. (Mr. Marmion: No, no.) The hon. member said "no, no;" but if he had seen as many wills as he had, he would have been of a different opinion. They had been told that the Bill tended to add an impetus to the socialistic tendency of the age; but he did not think there was much risk of that, or of hon. members being swerved from their allegiance to the Bill by any such nonsense.

Mr. MARMION said, very probably the hon. member Mr. Stone was quite right as regards the disposition of their property by people who were in the habit of making their wills; but he would point out that this Bill was intended to benefit another class of people altogether—persons who, as a class, hardly ever made a will; and it was on behalf of this class, a very numerous one in this Colony, that he wished to speak. The hon. member had alluded to persons who, by the exercise of economy and industry, manage, after much hard struggling, to become the possessors of a piece of land, and of a cottage to cover them; but he would ask the hon. member whether he thought that these people, after thus struggling to make a home for themselves and their families, wished to see the property, when they died, pass into the hands of strangers—which must be the case when the property came to be sold in order to distribute the proceeds among the children. He did not know much of human nature, if that was the prevailing feeling among the class of people for whose special benefit this Bill was intended. He thought it would be found that the great desire of persons who thus acquired a little property was to see it retained in the family, and become a rendezvous—a home—which their descendants might regard with interest, if not pride, associated as it would be with the family name. He thought, as he had said before, that the public ought to have some voice in this matter themselves, and, for that reason, he again hoped the hon. member in charge of the Bill would not press it through, this Session, but let the feeling of the country be consulted with regard to it.

Mr. RANDELL hoped that no such course as that suggested by the hon. member for Fremantle would be adopted with respect to the Bill, as it would only perpetuate an injustice which the law, as it stood at present, worked, in the case of the younger members of families, whose father died intestate. The hon. member for Fremantle had simply pitted assertion against the facts of the hon. member in charge of the Bill; while, as to the objections raised the other day by the hon. the Attorney General, they had been effectually met by the fact that they applied to an entirely different state of affairs, existing in England, and were in no way applicable to the circumstances of this Colony. Even apart from that, he did not think that the proud position which the mother country held among the nations of the world was attributable to the doctrine of primogeniture. (The Attorney General: I did not say to primogeniture, alone.) Other causes had combined to elevate England to her present pinnacle of greatness. He would point out, with regard to the administration of the estate of an intestate, that the property would not be divided in a haphazard manner between the surviving members of the family, but would be equitably administered by the Court,

with due regard to all the circumstances; and the probability in most cases was, that it would be handed over to the widow for the joint benefit of herself and her children, for their education and support. Cases of the grossest injustice and hardship had occurred under the existing law, in consequence of the whole property going to the eldest son, to the exclusion of all the other children. An instance had even occurred of a son turning his own mother and his brothers and sisters out of doors, and the law was powerless to relieve or assist them. He thought the arguments in favour of the Bill were conclusive, and that nothing was to be gained by postponing its consideration.

MR. BROWN would not like to give a silent vote upon this most important subject, and he was free to confess that his sympathies, so far, went with the principle involved in the clause under consideration, though, at the same time, he sympathised to a certain extent with the hon. member for Fremantle in his efforts to defer the final consideration of the question until another Session, in order to afford an opportunity for those who are most likely to be affected by the Bill to pronounce an opinion upon it. From his own experience of the class of persons referred to by the hon. member for Fremantle, he thought the prevailing feeling amongst them was in favour of the father's property, real as well as personal, being distributed among the surviving members of the family. These people were quite aghast when they found that the law required that the whole property shall go to the eldest son. What the Council had to consider was this—whether the majority of persons in this Colony would desire that their property should be divided at their death as contemplated here? For his own part he certainly thought they would; and should it be necessary to record his final vote on the question this Session, he would be inclined to go with the Bill. On the other hand, he considered it very desirable that such an important measure should not become law without some reference to the feelings of the country on the subject.

MR. STEERE said that even at the risk of being considered a Socialist, he intended to vote for the Bill. He always had considered, and he did so now, that the law of primogeniture was one of the most unjust laws that ever existed, and, so far as the circumstances of this Colony were concerned, there was nothing that he was aware of to be urged in favour of perpetuating a law that inflicted such hardship upon the younger members of a family. The hon. member for Fremantle had conjured up a very sentimental grievance indeed,—namely, that if this Bill passed into law, the class of people in whose interests the measure had been introduced, would be prevented from establishing a sort of family mansion. But the question was, whether these family mansions—which he could not help regarding as very aërial castles indeed—were to be preserved at the cost of sacrificing the interests of every member of a family except the eldest son.

MR. CROWTHER thought the thanks of the community were due to the hon. member who had brought in this Bill, which he had much pleasure in supporting, though he frankly confessed he did not believe in the measure in its entirety, and he thought it would be well that the House should have a further opportunity of giving it their matured consideration. He did not think that the fate of the Bill would be at all imperilled if it were put off until next Session, and, for that reason—and also because he objected to a measure which, under parliamentary Government, would settle the fate of ministries being decided in this off-hand manner, without any reference to the popular feeling on the subject,—he would be glad to see the suggestion to postpone the Bill until next Session adopted.

THE COLONIAL SECRETARY (Lord Gifford) said the crucial point at issue was the doctrine of primogeniture. He was aware that a great many people doubted the expediency of abolishing that doctrine, and contended that it would be detrimental to the national character if that were done. For his own part, he had no such belief in the doctrine, for he saw that other countries besides England had attained national greatness without being in any way indebted to the law of primogeniture. They need not go further than France or Germany to find an illustration of this. He thought the law as it now stood

worked great injustice in many instances, and, though, personally, he was in favor of the principle of the Bill, he considered it was one which required very grave consideration on their part before they passed it into law.

Mr. BURT said it was all very well talking about the injustice of the law as it now stood, but no case of injustice had been brought to their notice. To his mind, the injustice would be in altering the law, and for this reason: under the law as it now stood they had at least one person who was not left penniless, whereas if they were to divide the property between half a dozen children, the result would be they would have so many penniless persons unprovided for. How many of these small properties, he should like to know, would support more than one, or even one, person, without the assistance of his own personal exertions? What would be the good of frittering it away between five or six children, none of whom would gain any substantial advantage from such a legacy? If this Bill became law, the result would be this: their younger sons, instead of taking to some trade, as now, would hang about the old house in expectation of sharing the property when the father died, and there would not be the same incentive to work as there is now, when children know that they must depend on their own exertions for a livelihood. At present, when the property descends to the eldest son, he may be able to keep it as a shelter over the heads of the rest of the family, instead of its being dissipated away, and be of no use to any of them. These properties would have to be sold before they could be divided among all the children, and, with a knowledge of this fact before their eyes, was it likely that people were going to expend their time and labor in improving, and he might say in beautifying their estates, when they must know that at the father's death it would be sold by auction and pass into the hands of strangers. He did not mean to say that the Bill, if it became law, would give an impetus to the Socialistic tendency of the age, as they were told it would; but he did think it would give a wonderful impetus to the auctioneering business, and he could not help thinking that his hon. friends opposite, who were such staunch supporters of the Bill, had some idea of going into that line of business.

The ATTORNEY GENERAL (Hon. A. C. Onslow) said he cordially endorsed the sentiments expressed by the hon. member who had just sat down, as to the injurious effects which the proposed alteration of the law would cause, by the sub-division of the small property-holder's estate among the whole of his children. He was a great admirer of the peasant class, his warmest sympathies were with them—a bold peasantry, their country's pride; and it was for this very reason that he was opposed to this Bill. He did not think they would be doing anything to serve the interests of this class, by separating them from the land which supported them. If they passed this Bill, their peasantry, instead of taking any interest in the family property, would merely look upon it as something to be made the most of during the old man's time, knowing full well that at his death it would pass into other hands. If they encouraged an idea of that sort, they would be encouraging a most mischievous feeling throughout the country. It seemed to him very clear that, unless they got some individual member of a family to take an interest in the property, and to look upon it as an heirloom to be handed down from father to son, the result would be that, instead of having an industrious proprietary class, they would have a very dangerous class amongst them. People would seldom take any pride in improving and enhancing the value of their estates, and their children would, in fact, appreciate it only for the sake of what they were likely to get out of it, when the old man was gone.

Mr. BROWN said the opposition offered by the hon. the Attorney General and by the hon. member for Murray to the Bill reminded him of the opposition which was manifested in some quarters to a Bill which he had the honour of introducing in that House some years ago—the Bill to legalise marriage with a deceased wife's sister. A great many people seemed to imagine that that Bill rendered it absolutely compulsory upon a man to marry his deceased wife's sister, and hence a good deal of the opposition offered to the Bill. In the same way some hon. members appeared to imagine

that the present Bill rendered it compulsory upon a man to leave his real property at his death for division among all his children, whereas, in reality, if any man wished his property to descend to his eldest son all he had to do was to make a will to that effect.

MR. STONE said, as there appeared to be a general feeling in favour of allowing the Bill to stand over until next Session, he would not press it upon the House. He had such faith in the principle of the measure that he entertained no fear that its postponement would in any way jeopardise its adoption hereafter. With regard to what had fallen from his hon. friend the Attorney General, about a bold peasantry being a country's pride, he must say that he was rather surprised, after hearing the hon. gentleman's remarks the other day in favour of the doctrine of primogeniture—which the hon. gentleman said he regarded as an important factor in elevating the mother country to the proud position which she occupied among the nations of the world; he was surprised, after hearing the hon. gentleman singing the praises of the doctrine of primogeniture, to hear him now arguing in favour of a peasant proprietary. He would ask the hon. gentleman what would have become of the law of primogeniture in England, if the system of peasant proprietorship had been fostered and encouraged?

The debate was then adjourned, *sine die*.

APPROPRIATION BILL (SUPPLEMENTARY), 1881.

Read a third time, and passed.

MUNICIPAL INSTITUTIONS ACT, AMENDMENT BILL.

MR. SHENTON moved, The second reading of a Bill to further amend "The Municipal Institutions Act, 1876." This Act, the hon. member said, empowered Municipal Councils to appoint their own officers, and to fix the amount of remuneration to be paid to them, but it contained no provision empowering the Council to grant their officers any retiring allowance. When the Act was originally framed, he believed it was chiefly drawn from the Local Government Act of Victoria, but, for some reason or other, the 176th section of that Act was omitted from our own, and the present Bill was intended to remedy that omission. The Municipality of Perth, deeming it desirable to dispense with the services of one of their officers—a very old and trustworthy servant—did not think they would be acting fairly towards him if they caused him to retire without showing their appreciation of his services by granting him a gratuity, so they voted £150 to him, believing at the time that the 43rd clause of the Municipal Institutions Act empowered them to do so. But the Auditors, when they came to examine the accounts, refused to allow that item, and struck it out, although it was admitted that the Council had acted in the best interests of the ratepayers. The present Bill proposed to indemnify the Council in respect of its action in that case, and to that extent was retrospective in its operation. He hoped the measure was one which, under the circumstances, the House would agree to, and he now begged to move its second reading.

THE COLONIAL SECRETARY (Lord Gifford) rose, on the part of the Government, to say that the hon. member's Excess Bill had his most cordial support, and he hoped that, in return, he should have the hon. member's support when he (the noble lord) had occasion, on the part of the Government, to bring in another Excess Bill. The hon. member had shown the house how these Excess Bills were occasioned, through no fault or extravagance on the part of the contracting parties, and he hoped that, in future, the House would be inclined to deal more leniently with the Over-expenditure Bills of the Government, should occasion arise to introduce such Bills.

MR. RANDELL said he must protest against the conspiracy which appeared to have been entered into between the noble lord the leader of the Government and the hon. member who on the present occasion represented the Council of the city of Perth. He hoped the House was not going to become a party to such a conspiracy as this, and that by rejecting the present Excess Bill it would leave itself free to refuse its assent to any future Excess Bills. Seriously, the Bill was one which he could not give his ad-

herence to, and he felt bound to move, as an amendment upon the motion for the second reading, that the Bill be read a second time that day six months. He thought hon. members would see that, short as the Bill was, it presented two very objectionable features, one of them being a policy which that House had of late resolutely set its face against, namely, the granting of pensions to public servants. He did not think we had arrived at that high state of civilisation that our Municipal Councils should be called upon and empowered to grant retiring allowances to their officers, out of the ratepayers' money. Another objectionable feature embodied in the Bill was that it was retrospective in its operation. The hon. member who introduced it was candid enough to state that it had been brought forward for the purpose of indemnifying the City Council in respect of an illegal act of unauthorised expenditure. That was not the kind of legislation which that House ought to encourage. There were other objectionable principles involved in the Bill, to which he need not now refer; but he protested against it mainly on the two grounds he had already mentioned.

Mr. BURT said hon. members would observe that the first part of the Bill was designed as a cloak to cover the latter part. He was glad to find that the hon. member in charge of the Bill had been straightforward enough to tell them that it was a Bill of indemnity,—nothing more nor less. Under the Municipal Institutions Act, of 1876, it was expressly provided that the expenditure incurred by Municipal Councils beyond that in respect of public works and improvements shall not exceed three per cent. of the ordinary income of the Municipality, and a very wise provision it was. The Municipality of Perth, however, had thought proper to exceed this limit, and the auditors had very properly refused to pass the item. He thought it would be an inconvenient principle for that House to adopt if they passed this Bill, and that it would be a very mischievous precedent to establish. If the City Council wanted to grant any of their servants a gratuity, they should have had the Act altered before doing so, and not come to that House to indemnify them in respect of a proceeding which was clearly illegal. It was his intention to vote for the amendment.

Mr. STEERE said he also would support the amendment, for in doing so he would only be acting consistently with his principle with reference to granting gratuities and pensions to public servants, which he had always been opposed to. The present Bill actually went beyond anything provided for in the Superannuation Act; it not only proposed to empower Municipal Councils to give gratuities to their officers, but also to their relatives, and that, too, without any limit. If this Bill were to pass, there would be nothing to prevent these corporations from spending the whole of the rates in pensions and gratuities. The measure was a most objectionable one, rendered still more so by reason of its retrospective character.

Mr. SHENTON said the same principle as was proposed to be introduced by this Bill was already in operation in the Colony of Victoria, where the same power as was here contemplated was vested in the Municipal and Shire Councils.

Mr. STONE moved the adjournment of the debate until Thursday, 25th August, which was agreed to.

EXCESS BILL, 1879.

This Bill was passed through Committee *sub silentio*.

The House adjourned at a quarter past eleven o'clock, p.m.

LEGISLATIVE COUNCIL,

Tuesday, 23rd August, 1881.

Excess Bill, 1880: referred to a Select Committee—Pension to Mr. Sholl, G.R., for past services—Message (No. 17), *re* Ocean Steamers calling at Fremantle—Message (No. 18), *re* Legislative control over Loan Monies—Excess Bill, 1879: third reading—Estimates: Consideration of—Adjournment.

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

Prayers.