

## LEGISLATIVE COUNCIL,

*Friday, 12th August, 1881.*

Prevention of Smuggling at Cape Hamelin and Port Augusta—Precautions against Spread of Rabbits—Excess Bill, 1879—Disposal of Residue of Road Loan—Message (No. 8): Consideration of—Audit Bill: second reading; referred to a Select Committee—Administration of Estates Bill: adjourned debate on motion for second reading; in committee—Consideration of Message No. 6 re Employment of Crown Agents—Third Readings—Adjournment.

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

## PRAYERS.

## PREVENTION OF SMUGGLING AT CAPE HAMELIN AND PORT AUGUSTA.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, Drew the attention of the Government to paragraphs 32, 33, 34, 35, and 36 of Captain Smith's Report upon the Police Force; also to the following questions put during the Session of March last by the hon. member for the Vasse:—  
 "What arrangements are made by the Government to protect the revenue against the landing of uncustomed goods at Cape Hamelin and Augusta?  
 "To which the Colonial Secretary replied:—The matter has not escaped the attention of the Government, and the hon. member will find that by the next sitting of Council possibly satisfactory arrangements have been made." The hon. baronet said that, in the absence of the hon. member for Vasse, he had been requested to put certain questions to the right hon. gentleman at the head of the Government bench, relating to this matter, which questions, in accordance with notice, he would now put:—

"1. Can the Government inform the House as to the distance from the nearest Customs office to Hamelin and Augusta, respectively?

"2. Is the Government aware that a vessel is employed, exclusively, in trading between those ports and South Australia?

"3. Does not this fact, together with the non-existence of any Customs office or Police Station at the ports named, afford large opportunities for smuggling?

"4. Is the Government aware of rumours generally current, that smug-

gling has, at those ports, been largely carried on?

"5. Is the Government in possession of the fact, that smuggling has, at Hamelin and Augusta, actually taken place?

"6. Have the Police Authorities reported to the Government upon the subject?

"7. Has the Government made those satisfactory arrangements with reference to this matter to which the Colonial Secretary, in March last, alluded?" The hon. baronet said it had been brought to his attention since these questions were placed on the Notice Paper, that the form in which they were put implied some reflection upon Mr. Davis, the owner of the timber stations at the ports in question, and a gentleman to whom he thought the Colony was much indebted for what he had done for it. He wished distinctly to state that he had no desire or intention whatever to cast any reflections upon that gentleman; in fact, one of the paragraphs in the report of the Superintendent of Police to which he had referred, acknowledged that Mr. Davis was quite prepared to erect suitable accommodation for a constable and Customs officer on the station, and to render any other assistance he could to protect the revenue.

THE COLONIAL SECRETARY (Lord Gifford) replied:—The arrangements for Police at the Port of Augusta are receiving every attention from the Government, but it was impossible to fix the most advantageous site for the Station until the Superintendent visited the spot, as it had to be definitely decided whether Port Augusta was the best site, or Hamelin, especially as the mill was to be moved to Borranup. Replying, categorically, to the hon. baronet's questions, I may state:—

1. Vasse the nearest. To Port Augusta, about 80 miles. To Hamelin, about 70 miles.

2. The Government is aware that the *Annie Lisle* trades regularly between Hamelin and Augusta and ports in South Australia.

3. Certainly.

4. Rumours have reached the Government, but nothing definite has ever been shown to have occurred.

5. No.

6. The police authorities have reported that great facilities exist.

7. Is answered by first explanation.

#### PRECAUTIONS AGAINST SPREAD OF RABBITS.

MR. S. H. PARKER, in accordance with notice, asked the Honorable the Colonial Secretary, "Whether it is the intention of the Government to introduce into the House, during this Session, a measure for the prevention of the spreading of Rabbits." The reason he asked the question was this: although there did not appear to be much danger, at present, of this Colony becoming afflicted with the rabbit nuisance, still hon. members were aware that in the other colonies these creatures had become a regular pest, and that the greatest difficulty was experienced in getting rid of them. He thought that prevention, in this instance as in other cases, was better than cure, and he saw no reason why the Government should not take time by the forelock, and introduce a measure having for its object the prevention of the spread of these pests, which were capable of causing so much havoc and destruction, and which, once they found a footing in the Colony, would be next to impossible to exterminate, without involving a great deal of trouble and expense.

THE COLONIAL SECRETARY (Lord Gifford), in reply, said: "The Government do not intend to introduce a Bill this Session for the prevention of the spreading of rabbits, as the Select Committee of 1877 recommended that no legislation should take place until the danger against which it is sought to guard becomes more apparent. This Government at present see no reason to depart from this recommendation."

#### EXCESS BILL, 1879.

THE COLONIAL SECRETARY (Lord Gifford) moved, The first reading of a Bill to confirm the expenditure for the services of the year 1879, beyond the grant for that year.

Motion agreed to, and Bill read a first time.

#### DISPOSAL OF RESIDUE OF ROAD LOAN.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, asked the Honorable the Colonial Secretary, "When it is the intention of the Government to place before the House those proposals in regard to the altered arrangements for the disposal of the residue of the Roads Loan, which were mentioned in His Excellency the Governor's opening Speech."

THE COLONIAL SECRETARY (Lord Gifford) replied: "His Excellency having informed the Council in his opening Speech of his proposal to put on one side the balance of the Road Loan for the repairs of the bridges, and the Council having in reply expressed its acquiescence in the Governor's proposal, His Excellency is not aware that any further action is necessary in order to enable the views of the Governor and Legislative Council to be carried out."

SIR T. COCKBURN-CAMPBELL then gave notice that he would move a resolution on the subject.

#### MESSAGE (No. 8): ERECTION OF SMELTING WORKS.

On the Order of the Day for the consideration of the Message received from His Excellency the Governor, on August 8th, (*vide* p. 204 *ante*) forwarding a correspondence with Messrs. Schaw and LeFevre, with reference to the erection of smelting works in the Victoria district, and inviting the opinion of the House on the question referred to, more particularly as to the bonus which the promoters of the undertaking demanded,—

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said, hon. members who had perused the correspondence referred to, would observe that some two years ago Messrs. Schaw and LeFevre addressed a communication to the Crown Agents, in London, referring to the bonus of £2,500 offered by this Colony in 1874, with a view to encourage the erection of smelting works at Champion Bay, and making certain proposals on the subject for the consideration of the Local Government. This communication was forwarded by the Crown Agents to His Excellency Governor Ord, and it was submitted to him (the Commissioner) for his opinion on the proposals

made therein. His memorandum on the subject was attached to the correspondence before the House, and it would be observed that Sir Harry Ord, in a minute addressed to the then Colonial Secretary, instructed him to write to Messrs. Schaw and LeFevre, in the terms of that memorandum, expressing the desire of the Government to do anything in its power to further the mining interests, but explaining the difficulties which interposed in the way—chiefly as regards treating ore without the introduction of a flux which had to be brought into the district from a foreign country—and the mode in which it seemed to him (the Commissioner) this difficulty might be best met. It appeared, however, that, somehow or other, no such letter was ever written to the gentlemen in question, and one of them (Mr. Schaw) had recently arrived in the Colony, and had proceeded to Champion Bay in order to prosecute inquiries with regard to the feasibility of the project, in the carrying out of which, if their proposals are accepted, the promoters would be prepared to invest some £20,000 or £25,000, their intention being to erect works on a different principle to that originally contemplated, and on a larger scale; and he was informed by Mr. Schaw that the promoters were satisfied that they were now in possession of a plan by which ore could be desulphurised without the necessity of having to import the flux. This had removed the great difficulty which had hitherto existed in the way of smelting operations in this Colony being economically and profitably undertaken and carried out. Hon. members would observe from the correspondence, that in 1874 the Local Government offered a bonus of £2,500 to the person or persons who should, within the period of three years from that date, first erect smelting works in the Champion Bay district, on certain conditions; but, as no one came forward to claim the bonus, it had lapsed. As, however, there was some prospect now of having the object in view carried out, he was sure the House would agree with him, that if an agreement could be entered into on terms which would be mutually advantageous to the Colony and to the concessionaries, it would be well that we should embrace the present opportunity. He need not dwell upon

the great importance of giving such a stimulus to the development of our mining industry, as the erection of effective smelting works would afford; and, without further dilating on the subject, he begged to submit the following resolutions for the consideration of the House:—

“1. That to any firm or company who  
“will enter into an agreement with the  
“Government to erect, within three (3)  
“years from the date of such agreement,  
“in some spot in or near Northampton,  
“works capable of smelting at least such  
“a quantity of lead ore as shall yield  
“not less than one thousand (1,000)  
“tons of pig lead, in twelve calendar  
“months from the date of their com-  
“pletion, there should be paid out of the  
“public revenue of the Colony to such  
“firm or company, two thousand pounds  
“(£2,000) on the completion of their  
“construction, and a further sum of  
“three pounds (£3) a ton bonus on the  
“first one thousand tons of pig lead  
“smelted at them, making a total bonus  
“of £5,000.

“2. That the firm or company so en-  
“gaged shall be responsible for their  
“own supply of skilled and other labor,  
“but it will be competent for them to  
“select and nominate such a number of  
“necessary laborers for the erection and  
“completion of the work to be, from  
“time to time, introduced by Govern-  
“ment, as the Immigration vote for the  
“year may allow.

“3. That a site for the works, not to  
“exceed five (5) acres in extent, should  
“be granted in fee, free of charge, to  
“such firm or company on the comple-  
“tion of their engagement, occupancy  
“being allowed from the commencement  
“of operations—any land in excess of  
“such quantity should be paid for at  
“such rates as are current at the date of  
“application.

“4. That it is deemed desirable a  
“reduction on the ordinary railway rates  
“should be made in the transport from  
“the port to the works of all coals used  
“in smelting the ore.

“5. That the price to be agreed upon  
“for smelting ores sent from any of the  
“mines into the works for such purpose  
“should be per ton of pig lead and not  
“per ton of ore, and a guarantee should  
“always be given that the produce of

"such ore, when smelted, shall not be less than three (3) per cent. of the estimated results as shown by assay."

MR. CROWTHER moved, That Progress be reported, and leave asked to sit again on Tuesday, 16th August.

Agreed to, and Progress reported accordingly.

#### AUDIT BILL.

THE COLONIAL SECRETARY (Lord Gifford), in moving the second reading of a Bill to provide for the more effectual keeping and auditing of the public accounts, said the subject dealt with by the Bill had, he might say, convulsed political circles in this Colony for a considerable period, and he was afraid has been the cause of a good deal of rancour and unkindly feeling. He hoped the present Bill would tend to allay any ill-feeling which might have been stirred up, and that the present Session would have the credit of placing the system of keeping and auditing the public accounts on a safe, efficient, and unassailable basis, and that this Bill, when it passed through the ordeal of Committee, would be such as would meet with the approval of the Colony at large. He could not call the Bill a sensational one in any way, nor, on the other hand, could it be considered an unnecessary one. That the Government admitted the necessity of such a measure was apparent, from the very fact of their introducing it, and he could only hope that the system of keeping and auditing the public accounts which had until recently prevailed would be supplanted by a more efficient, and he might say a more vigorous system. The Bill was mainly founded on the recommendations of the Finance Commission—a Commission that had done its work thoroughly and efficiently, consisting as it did of gentlemen whom that House recognised as among the ablest financiers in the Colony. These recommendations, to a great extent, were identical with the Treasury Regulations as to the mode of keeping and rendering the public accounts, and probably a more efficient system could not be devised. It had been in force, in the other colonies, for a great many years, and had been found to work admirably. Under this Bill, the

Colonial Treasurer would be held responsible for the proper keeping of the accounts, and for preparing the periodical financial statements of the revenue and expenditure for publication, instead of the Auditor,—a change which must commend itself to the House. He did not for one moment desire to cast any reflection upon the Auditor General or his staff, for there were no more zealous officers in the service than they were; at the same time, there was an obvious anomaly in a system which admitted of the same department first preparing these financial statements and then auditing them. (The noble lord then proceeded to explain the various regulations which the Bill proposed to embody in legal form for keeping the public accounts in accordance with the Treasury instructions, and to point out the checks which they afforded against unauthorised expenditure.) The twelfth clause of the Bill was a most important one, and introduced, so far as this Colony was concerned, an entirely novel element into the system of dealing with questions of public expenditure. It was a system, however, which had worked very satisfactorily in Singapore, and the Government saw no reason why it should not do so here. This clause empowered that House from time to time to nominate four of its unofficial members as a Committee, whose duty it would be to advise the Governor, when required, during the recess, on questions of public expenditure, and no vote of money was to be exceeded, or unauthorised expenditure incurred, until the Government had invited the opinion of this Committee in respect of such expenditure. He need hardly point out that cases of emergency might possibly arise in which the Governor might deem it expedient, in the public interests, to incur some unauthorised expenditure contrary to the advice of the Committee; but if he did so, the Bill provided that a full statement of the circumstances of the case must be laid before the Legislative Council at the first convenient opportunity. More power was given to the Legislature, through its Committee, under this clause, than was really given to assemblies under Responsible Government, and he hoped hon. members would admit that there was every desire on the

part of the Government to satisfy the wish of the House with regard to the exercise of its right to control the public expenditure. He also trusted that the details of the Bill were, on the whole, such as would meet with their approval. The Government, however, did not ask, or expect the House to concur in every detail; they had no desire to force the Bill, the whole Bill, and nothing but the Bill, upon hon. members; and, if it was the wish of the Council that it should be referred to a Select Committee in order to consider whether anything further could be done to render the Bill more effectual for the purposes for which it was intended, he was in a position to state, on the part of the Government, that they were prepared to entertain any reasonable suggestions, with a view to render the Bill thoroughly acceptable to the House and to the country at large.

The motion for the second reading having been seconded, and put to the House,

MR. STEERE said: I must in the first place compliment the noble lord upon the very glowing account he has given us of the provisions of this Bill, which, in reality, is nothing more than a mere skeleton, and a measure which, I think, does not reflect much credit upon the inventive genius of the Administration which has introduced it; for, with the exception of one solitary clause, it contains no provision whatever for preventing the unauthorised expenditure of the public money, which is the object we have been aiming at all along. I can only hope that when the Bill emerges from Committee it will be such a measure as will for the future interpose some effectual check upon that illegal expenditure which has been the source of so much complaint on the part of the members of this House for some time past. Before proceeding any further, I must crave the indulgence of the House whilst I say a word or two with reference to the sneering and contemptuous manner in which the so-called "Audit party" has been treated in some quarters, throughout the whole of this agitation in favor of an improved system of keeping and auditing the accounts of the Colony. Really, from the depreciatory comments made by certain sections of the Press

upon the actions of the gentlemen who have been endeavouring to bring about this financial reform, one would think they had been guilty of some serious offence against the public. It is something entirely novel to me, and certainly very suggestive, that any efforts honestly directed towards checking illegal expenditure, and towards giving the representatives of the people a more direct control over the public purse, should be regarded with that disfavor, and made the subject of that sneering and contemptuous criticism which has been levelled at the so-called "Audit party" in this Colony, by a section of the local press. I think, however, the country at large gratefully recognises the exertions made by that party to bring about an improvement in the system of keeping and auditing the public accounts, and, should that improvement take place, I have no hesitation in saying that the result will be due in a great measure, if not entirely to these exertions. Coming back to the Bill now before us, I say again it is a mere skeleton of a Bill. The whole of it might have been embodied in a couple of clauses—one providing that, from and after the passing of this Act, the public accounts of the Colony shall be kept in accordance with the Treasury regulations and the other providing for the appointment of the proposed Committee of advice. This would have answered every purpose provided for in the Bill now before the House, and therefore it is that I have said it is a mere skeleton of a Bill, and one which I should have been ashamed to have introduced into this Council, and to call it an Audit Act. The only clause in the whole Bill of any real importance is the 12th clause, which certainly embodies a principle that appears to be a good one. But I think even here the Bill will require amending in order to give the proposed Committee of advice that power which it ought to have, if it is to be of any practical use or anything more than a mere nonentity. It strikes me it would be of very little use for the Governor to come to this Committee for advice, when all the money had been expended. What on earth could they do? They could not advise His Excellency to allow the public service to come to a standstill, and there would be nothing for them but to sanc-

tion the unauthorised expenditure. If this Committee's services are to be of any value they should be consulted before the votes have been expended, and be informed whenever any vote was being spent faster than it ought to be, so as to enable them to assist the Governor in putting a check upon it, in time. The clause should also provide that this Committee should be elected at the commencement of each Session, and not "from time to time," as provided in the Bill at present. The members of the Committee, who would only be human after all, might be subjected to great temptation. They might be invited to champagne luncheons, and, in the exuberance of their good nature, advise the Governor to spend away, and this House would be powerless to appoint others in their stead. Joking apart, it appears to me necessary that this Committee should be nominated annually at the commencement of the Session—the members, of course, being eligible for re-election—rather than "from time to time," which is a very vague term. If this clause were amended in the directions which I have indicated, I have no doubt it might be made a very valuable clause, and one which would tend in a great measure to prevent that unlawful expenditure of which we have had so much reason to complain of late years; while, on the other hand, it will relieve the Governor of the Colony of a great deal of responsibility, which will then be cast upon the Committee of advice, upon whom will rest the responsibility of advising any unauthorised expenditure. In this respect, perhaps, some hon. members might object to the clause; but I think, as I have already said, that the clause is susceptible of being shaped into a very useful one—in fact, it is the only valuable clause in the whole Bill. As for the rest, they merely embody in legal form certain regulations under which the public accounts ought to have been kept for years past; and a mere order from the Governor to put them in force would have answered every purpose which the present Bill will answer, so far as these regulations are concerned.

The motion for the second reading of the Bill was then agreed to.

THE COLONIAL SECRETARY (Lord Gifford) moved, That the Bill be now

considered in Committee of the whole Council.

MR. STEERE moved, as an amendment, That all the words after the word "That," be struck out, and the following words be inserted in lieu thereof:—"This Bill be referred to a Select Committee."

Amendment—put and passed.

MR. STEERE moved, That such Committee consist of Lord Gifford, the Honorable A. C. Onslow, Mr. Marmion, Mr. Brown, and the Mover, and, by leave, Mr. Burt and Mr. Crowther, with power to call for papers and persons, and to report on the 19th August.

THE COLONIAL SECRETARY (Lord Gifford) required that the Committee be formed in accordance with Standing Order No. 69 (by ballot).

The members having delivered the lists of names of members to serve on such Committee, in accordance with the Standing Order, the Clerk reported to the Speaker the following names of members as having the greatest number of votes:—Lord Gifford, Honorable A. C. Onslow, Messrs. Brown, Burt, Crowther, Marmion, and Steere.

#### ADMINISTRATION OF ESTATES BILL.

On the Order of the Day for the resumption of the debate on the motion for the second reading of this Bill,

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said the Bill, on the whole, was one which would have his most cordial support. As stated by his hon. and learned friend, Mr. Stone, when moving its second reading, there was really not much of importance that was new in the Bill, with the exception of one point; but that was such a very novel one that he was certainly unwilling to allow the Bill to pass its second reading without expressing his views on the subject. He alluded to the principle introduced in the 6th clause of the Bill—the section dealing with what, in the English law, was called the doctrine of primogeniture. Hon. members knew what that meant, although possibly but few of them had—he certainly had not—derived the advantages which were involved in the doctrine. The subject was one which necessarily excited a great deal of feeling one way or the

other: those who benefited by the law as it stood of course supported it, and, on the other hand, those who suffered through it condemned it. As he had just remarked, he was not one of that few and fortunate class who had derived, or expected to derive, any benefit from the doctrine of primogeniture, and therefore any words which he might utter in support of it could only be looked upon as the expression of his honest and conscientious convictions. He would ask hon. members to consider the question very carefully indeed, before they made up their minds to strike a blow at this doctrine. He would ask hon. members to consider what it was that had caused England, amongst all other nations, to take a leading part in the actions of this world? Was it not the fact that her sons, born—he would not say 'to riches and affluence, but born surrounded with the comforts of life, and having been brought up in the enjoyment of these comforts,—were, when they attained a certain age, thrown broadcast upon the world to make their own living, and to shift for themselves; was it not the fact of their having been reared in these comfortable circumstances up to a certain period of their life, and the knowledge that, if they wished to continue to surround themselves with those comforts in after life, they must put their shoulder to the wheel, and by their own energy and activity win for themselves that position in the world which the law of primogeniture had denied them—was it not this fact, he asked, which had caused Englishmen to take a leading part in every industrial enterprise, a leading part in the discovery and opening up of new territory, a leading part in the work of colonisation, and in all those undertakings which tended to make a nation great and prosperous? Let them look at the typical young Englishman, born and reared amid home comforts, but, as he grew up to manhood, cast on the world and his own resources, and let them look at the young man, in similar stations of life, belonging to other nations where the doctrine of primogeniture did not prevail. Let them go across the Channel, let them visit any country on the continent, and what would they see in any one of the large towns of France, or Germany, or Italy? They would see

a nation of well-dressed worthless paupers, men who had been born, not perhaps to the silver spoon of the son and heir of the rich Englishman, but at all events having a sufficient quantity of that spoon in their mouth to enable them to live idly for the remainder of their life—men without energy or activity, listless drones in the industrial hive,—men who did not care to do anything in the world for themselves, simply because the laws of their country had enabled them to inherit a small pittance out of the paternal estate. And that really, he ventured to say, was what the English nation would come to, if they abolished this doctrine of primogeniture. He did not say this in the interest of eldest sons, but rather in the interest of younger sons. It was better for a man that he should be obliged to work for himself, and to feel the full weight of the fact that upon himself and himself alone he must rely if he wishes to make his mark in the world, than that he should know that upon the death of his father he will share with his eldest brother a small portion of that father's patrimony, upon which to eke out an idle and worthless existence. Yet that was the doctrine which was assailed by this Bill—a Bill that sought to strike a blow, and a fatal blow, at a law which had done as much as anything to lay the foundation of those sturdy and vigorous elements in the national character of Englishmen, and which had caused the British nation to attain the position which she now held among the nations of the world. If this Bill became law, the result would be the raising in our midst of a race of people who were unknown in the old country, but who had undoubtedly become known in her colonies—those unattractive specimens of humanity known as "loafers," and waiters upon Providence, who, in the expectation of inheriting with their eldest brother some portion of their father's patrimony, would not see the necessity of working for themselves, preferring rather to lead a life of idleness, and waiting, Micawber-like, for something to turn up, in the shape of some portion of the paternal estate. He trusted he had not wearied the House in thus dwelling upon what might to some hon. members appear only a speculative question, but which to him

seemed a most important subject, and one to which he hoped hon. members would give their most serious consideration, before they affirmed the principle involved in the clause of the Bill to which his remarks had been mainly addressed.

The motion for the second reading of the Bill was then agreed to, and the House went into Committee upon it.

#### IN COMMITTEE.

Clauses 1 to 5—Consolidating existing enactments, relating to the administration of the estates of deceased persons—were agreed to.

Clause 6.—“Real estate of persons who shall die intestate to be distributed in the same manner in all respects as “personal estate:”

MR. CROWTHER thought the House was acting very unwisely in passing clause after clause of an important Bill of this kind, involving such a radical change in the law of inheritance, without giving it greater consideration. Personally, he was free to confess that he was in entire ignorance as to the alterations which the clauses already passed would effect, and, with all due deference to the House, he had very little hesitation in saying that, with the exception of the members of the legal profession, no one else understood what they were doing. From what he could make out of the present clause, it embodied a most important principle, and if ever a Bill came before that House, in which the country ought to have a voice, this was one of them. They were pulling down one of the oldest fabrics of the law of the land—whether wisely or not was a question requiring the gravest consideration. He did not wish to see the Bill shelved, for in his opinion it was a very important measure, and the law certainly required re-modelling; at the same time, he thought the country ought to have this clause before it, for some time prior to its becoming law, for it was a clause which, so far as he understood it, would cause quite a revolution in the law as regards the inheritance of property. With a view, therefore, to enable the country to pronounce an opinion upon a Bill which so closely affected the community at large, he would move, “That the Chairman do now leave the Chair.”

MR. STONE said the simple effect of the clause if it became law would be this: if a man, owning landed property, died without making a will, that property would be divided amongst the surviving members of his family in the same way as his goods and chattels are now divided, and would not go, as at present, to the eldest son alone.

MR. RANDELL thought the sooner the better the Bill became law, for there could be no doubt that the doctrine of primogeniture, which had found so able a champion in the hon. and learned gentleman on his left (the Attorney General), was a doctrine which, in many cases, worked as great an injustice as could be perpetrated. It was a relic of the dark ages of English jurisprudence, and whatever effect it may have produced on the national character, there was no doubt that, in a Colony like this, where the greater portion of people's property consisted of real estate, rather than personal, the system was one which, in its operation, often inflicted the greatest hardship upon the younger members of a family. The proposal to remove this grievance, and to liberalise the law in this respect, was one which he thought would commend itself to every unprejudiced mind, and he hoped the House would not in this instance act in direct opposition to those liberal principles which usually characterised colonial legislation. He thought that every child had the same claim upon its father, and, if the father died intestate, his real property should be equally distributed amongst the whole of the surviving members of the family. This was exactly what the clause now before the Committee proposed to bring about, and he congratulated the hon. member (Mr. Stone) upon the courage and the good sense he had shown in the introduction of such a clause into the Bill. Similar measures, he believed, had been enacted in some of the other colonies, and received the Royal assent; and he did not think there was any likelihood of the present Bill being vetoed or disallowed.

MR. MARMION, without at present expressing any opinion upon the principle involved, said he thought the Bill was one which certainly ought to be submitted to the country. The voice of the public press and of the various con-



stituencies ought to be heard with regard to so important a change as was here contemplated. It was quite possible that the hon. member who had introduced the Bill might yet receive the thanks of the community for bringing forward such a measure, but he certainly thought the question was one upon which the voice of their constituencies should first be heard.

MR. STEERE expressed himself in favor of the clause. The hon. member who had brought forward the Bill had spoken to him on the subject some time previously, and he then promised to support it, in the event of its introduction.

MR. BURT said he had given the question a great deal of consideration, for the purpose of deciding in his own mind whether this was an opportune time for attempting to bring about this reform in the law of inheritance, and also whether, if such a change were effected, it would be a beneficial one to the community at large. As to the principle involved, it was one of the most simple ones that could have come before them, namely, whether, when a man died intestate (or, in other words, without making his will), all his landed property should go to his eldest son, the heir-at-law, or whether it should be distributed amongst all his children, like his forks and his spoons. The conclusion he had arrived at—not however without some hesitation—was that it was inadvisable to change the law, in this respect, in any way.

MR. BURGESS said that the Bill, at any rate, would have one good result—it would induce the owners of property to make their wills, and this would bring so much more money into the pockets of the lawyers.

MR. S. H. PARKER suggested that this particular clause only should for the present be withdrawn and not the whole Bill—which would be the case if the motion of the hon. member for Greenwich were carried. The Bill contained other very useful and valuable clauses, with regard to which there could be no difference of opinion, and it would be a pity if the whole Bill were lost in consequence of the feeling which appeared to exist in favor of this particular clause being deferred until the country

had had an opportunity of expressing an opinion upon it. With regard to the doctrine of primogeniture, he thought there was a great deal to be said on both sides of the question; but, in a Colony like this, where it was the aim and object of almost every man to become the owner of a grant or grants of land, according to his means, and where the great bulk of property consisted of real estate, he thought the preponderance of argument was opposed to the doctrine.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said a greater principle was involved in this clause than was embodied in any measure that had been brought before the Legislature of the Colony for some years past, and he hoped, again, the House would pause before they affirmed such an important principle without giving it that consideration which it deserved. He therefore begged to move, That Progress be now reported and leave given for the further consideration of the Bill that day week.

This was agreed to.

#### MESSAGE (No. 6): EMPLOYMENT OF CROWN AGENTS.

Adjourned debate.

MR. S. H. PARKER said he had simply moved the adjournment of the debate on the Message—forwarding an extract from the despatch relating to the employment of the Crown Agents—in order to enable the Government to furnish some information as to whether the despatch read by the hon. member for Albany was a true copy, and in order to admit of His Excellency the Governor having an opportunity of furnishing such explanation as to him might appear expedient. He had nothing further to say on the subject.

THE COLONIAL SECRETARY (Lord Gifford) said he was much obliged to the hon. member for moving the adjournment of the debate. From the despatch read by the hon. member for Albany, the House would have observed that there were two distinct subjects dealt with in the despatch—one relating to the necessity of sending home the public accounts for audit, and the other relating to the necessity of employing the Crown Agents. The Address to His Excellency the Governor did not in any way touch upon

the former question, and consequently the extract sent by His Excellency in reply to the Address only embraced that portion of the despatch relating to the latter question,—the obligation of this Colony to employ the Crown Agents. A similar question was put by the hon. member for Perth, during the Session of 1878, and the reply then made by the Commissioner of Crown Lands was to this effect: "It is the practice in Crown colonies to employ the Crown Agents to send out supplies for the public service, but His Excellency the Governor is not aware of any order of Her Majesty's Secretary of State for the colonies making it incumbent upon him to do so." The resolution moved by the hon. member for Albany affirmed that "the Government had been informed by the Secretary of State that "if the elected members exceeded the nominees the Colony would no longer be considered a Crown Colony;" but that information had not been officially communicated to the House, and he did not think the House would be justified in taking cognizance of it simply on the strength of a copy of a despatch read by any hon. member, which despatch had not been officially communicated to the Legislature. What the House had been officially informed of by the Government was, that it was not incumbent upon the Colony to employ the Crown Agents to conduct its business in England. He therefore begged to move, as an amendment upon the resolution of the hon. baronet, the substitution of the following: "The Legislative Council considers that the Crown Agents should no longer be employed as a matter of course, and that the Government should employ on any particular occasion such Agency as under the circumstances may seem most advantageous; but this House, having already been officially informed by the Government that it is not incumbent upon the Colony to continue to employ the Crown Agents, does not deem it necessary or expedient to found this Resolution on information purporting to be contained in paragraphs of a Despatch which have not been officially communicated to the Council."

MR. S. H. PARKER said it was stated in the course of the debate the other day, that it was a well known

fact that this Colony was not a Crown Colony, and that (such being the case) the extract sent down by the Governor from Lord Kimberley's despatch was sufficient for all purposes. But, as a matter of fact, the Government had never admitted that we were not a Crown Colony. On the contrary, it had always led us to believe that such was the case; and the reply given to his question, in 1878, clearly showed this. No reference whatever was made in the question which he then put, as to the status of the Colony; but the reply furnished was, that "it was the practice in Crown colonies to employ the Crown Agents"—clearly indicating that the Government at that time regarded this Colony as coming within the category of a Crown Colony. And any one reading the extract from Lord Kimberley's despatch forwarded to the House by His Excellency the other day, would—unless he also read the context (which was *not* furnished)—naturally conclude that the present Administration also regarded this as a Crown Colony.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said, if the reply which he made in 1878 implied that the Government considered the Colony a Crown Colony, it was attributable to his own fault in wording the reply. What he had intended to convey was, that, although it was the practice in Crown colonies to employ the Crown Agents, yet, that, as regards this Colony—possessing as it did a representative constitution—His Excellency was not aware of any order from the Secretary of State making it incumbent upon us to do so.

MR. STEERE agreed with what had fallen from the hon. member for Perth, that we had always been led to believe that we were a Crown Colony. This idea had always been impressed upon the House by the Government, and had been so impressed, he thought, for the sole purpose that the Government might exercise a little more control over the actions of the House than they might otherwise do. Yet the amendment submitted by the noble lord affirmed that the House had been "officially informed" by the Government that such was not the case. He should like to be told where he could find such official infor-

mation among the records of the House. He had searched for it in vain, himself, and, until it was shown to him, he could not support the amendment, for it alleged what was not a fact. It was true that such information had been conveyed by Lord Kimberley to Governor Weld, but it had never been officially furnished to that House.

MR. BROWN said the hon. member was in error in stating that the amendment alleged that the House had been officially informed that this was not a Crown Colony. What the amendment affirmed was that the House had been officially informed "that it was not incumbent upon the Colony to continue to employ the Crown Agents." All that was asked in the address adopted the other day was, whether this was the case—whether it is incumbent upon us to employ the Crown Agents; and he thought that the extract from the despatch furnished to the House supplied all the information on the subject asked for. The hon. member for Albany, on finding that the whole of the despatch was not furnished, might, if he had wished to do so, move another address, requesting His Excellency to furnish the remainder; and, if His Excellency had refused to do so, some other course might have been adopted. Possibly the hon. baronet regretted now that he had not done so. The hon. baronet, when he moved his resolution, admitted that he merely put it forward so as to place himself in order, and, the deduction was, that he did not attach much importance to it. Under these circumstances, he hoped the hon. baronet would see his way clear to withdraw it.

SIR T. COCKBURN-CAMPBELL remembered distinctly that when, some years ago, it was proposed that the Colony should go into Responsible Government, one of the chief arguments urged in favor of the proposed change was that, being a Crown Colony, we were, under our present constitution, obliged to employ these Crown Agents; and the same representation had been made to them over and over again. In fact, it was the general impression throughout the Colony,—there was no doubt about that. As for experiencing any feeling of regret, which the hon. member for Geraldton seemed to think he ought to feel,

for not having again moved another "humble address," asking, as an act of grace, for the remainder of the despatch, he assured the hon. member he felt no such regret. It had been his intention from the first to withdraw his resolution, after the House had had an opportunity of debating upon the question.

MR. CROWTHER understood that the object of the adjournment of the debate, the other day, was to enable the Government to find out whether the despatch read to the House by the hon. member for Plantagenet was a spurious or a genuine one. Judging from the wording of the amendment submitted by the noble lord opposite, the hon. baronet had got hold of some spurious document, which merely "purported" to convey the information furnished in the original despatch. If that was the case, he thought it was a great pity the Government had not deemed it proper to furnish the House with the original document, instead of asking the Council to adopt a resolution which, by implication at any rate, cast a reflection upon one of its own members. (Mr. Brown: No, no.)

THE ATTORNEY GENERAL (Hon. A. C. Onslow): We (the Government) have been somewhat twitted by more than one hon. member for not having taken up the challenge thrown down the other night,—that we should state categorically whether the despatch read by the hon. member for Plantagenet was a genuine one or a spurious one. I say we are not obliged to accept that challenge. His Excellency the Governor, when called upon to produce any despatch, cannot be bound to give the whole of that despatch; and, in this particular instance, I maintain that in point of fact, His Excellency furnished the House with all that portion of the despatch bearing upon the question asked. If the question asked admitted of a doubtful interpretation, the blame lies with the dubious character of the question itself, and not with the insufficiency of the answer. What was it that was asked for? A copy of a despatch, informing one of His Excellency's predecessors that, upon the adoption of a constitution "such as the Colony now possesses," the Colony would be at liberty to employ any agents whom it pleased. Is it at all

surprising that His Excellency, on reading that address—alluding as it did, in distinct terms, to the constitution which the Colony now possesses—should come to the conclusion that every hon. member of this House knew as much as His Excellency did himself, that, according to the Colonial Office Regulations, this is not a Crown Colony? That is exactly what was in His Excellency's mind; and if it is not what was in the minds of hon. members, it is because their minds were working in another direction,—and the Governor was not to blame for that. Naturally, His Excellency came to the conclusion that the members of this House knew as much about the proper political status of the Colony as he himself did, when he furnished the House with this extract, which—if I may be permitted to paraphrase the address itself—was to this effect: “When the ‘Colony possesses a representative constitution, such as it now possesses, the ‘Government is at liberty to employ ‘any other agency, in lieu of the Crown ‘Agents.’ That, in effect, was the Governor's reply, and I defy any hon. member, who has not already prejudged this question, to give it any other interpretation. The question, as put to His Excellency, was fully answered, and if it was not full enough to meet the satisfaction of hon. members, it was because the question itself did not go so far as it did in the mind of the hon. member who put it.

MR. BURT said it was simply ridiculous talking about hon. members being aware of the “political status” of the Colony. Of course they were aware of that. Every school-boy knew it. But what they wanted to know was—whether we are a Crown Colony. If the reply given by the Commissioner of Crown Lands (already alluded to) did not imply that we were, then, he (Mr. Burt) did not know what the meaning of the hon. gentleman's words was. And if the extract from Lord Kimberley's despatch did not support that view, he was equally at a loss to know what it was intended to convey. No one, for a moment, thought that the rest of the despatch was withheld for any purpose,—he failed to see what purpose was served by withholding it. At the same time, he thought some reason might

have been assigned for not giving the whole despatch. That the extract, taken *per se*, or taken in conjunction with the reply of the Commissioner of Crown Lands, in 1878, was calculated to impress any one with the belief that we were a Crown Colony, was obvious. That impression was a very prevalent one. It was not confined to the members of that House. Let them look at the views expressed by His Honor the Chief Justice, in the correspondence relating to the proceedings at the Inter-colonial Conference,—and not only by the Chief Justice but also by the Governor. Telegram from the Chief Justice to the Governor: “I say, as a Crown Colony we do not decide, we only listen.” Telegram from the Governor to the Chief Justice: “This Colony is on its own account in favor of Chinese immigration and even if this were not so, we could not, as a Crown Colony”—and so forth. Then came Governor Robinson to Secretary of State: “I do not suppose that Her Majesty's Government will care to close the ports of a Crown Colony”—etc. In fact, throughout the whole of this correspondence, the Colony was regarded both by the Governor and the Chief Justice, as a Crown Colony. What, then, was the deduction which hon. members would naturally draw from the extract forwarded to the House by the Governor from Lord Kimberley's despatch?

SIR T. COCKBURN-CAMPBELL said that what he wanted had been made clear, namely, that the Colony need not, necessarily, employ the Crown Agents,—and, as this was all that he wished to establish—he would, with the leave of the House, withdraw his resolution.

THE COLONIAL SECRETARY (Lord Gifford) said his instructions were to press the amendment which he had submitted, and therefore he did not feel at liberty to fall in with the proposal that the original resolution should be withdrawn.

MR. SPEAKER said the resolution could not be withdrawn if there was a single dissentient voice. (Addressing the Colonial Secretary): “Do you, sir, object to the withdrawal of the resolution?”

THE COLONIAL SECRETARY (Lord Gifford): Yes, I do object, I wish

to put my amendment as a substantive motion.

The question was then put—that leave be given for the resolution to be withdrawn. A division being called for, there appeared—

Ayes ...	...	5
Noes ...	...	11

Majority against ... 6

AYES.	NOES.
Mr. Burt	Lord Gifford
Mr. Crowther	The Hon. M. Fraser
Mr. S. H. Parker	Mr. Brown
Mr. Steere	Mr. Burges
Sir T. C. Campbell (Teller.)	Mr. Hamersley
	Mr. Marmion
	Mr. S. S. Parker
	Mr. Randall
	Mr. Shenton
	Mr. Venn
	The Hon. A. C. Onslow (Teller.)

Question—That the words proposed to be inserted, be inserted—put.

MR. STEERE then moved, That all the words after the word “advantageous” (in the amendment) should be struck out. In the first place, the statement contained therein—“that the House had been officially informed by the Government that we were a Crown Colony”—was not correct; and, in the next place, the concluding portion of the amendment was a reflection—an undeserved reflection—upon the hon. member who had brought forward the original resolution.

MR. CROWTHER said it appeared to him to have been introduced for no other purpose, and he regretted that the Government should have thought fit to resort to such tactics, in order to have an underhand blow at an opponent.

MR. BROWN said, the original resolution having been withdrawn, or rather negatived, it appeared to him there was no occasion to adopt the latter part of the amendment.

MR. MARMION thought the object in view would be attained if they adopted the first part of the amendment; the latter part—which certainly was capable of being construed as more or less offensive towards the hon. member for Plantagenet—might as well be withdrawn. If it came to a division, he certainly should vote for the amendment, for he failed to see what necessity there was for it, unless the object was to give unnecessary offence. And, as he believed there was no offence intended, in the

first instance, he could not recognise the necessity for affirming the latter part of the resolution moved by the noble lord, the leader of the Government. He therefore hoped the noble lord would see his way clear to agree to the amendment, seeing that all they had in view would be met by the first part of the resolution.

THE COLONIAL SECRETARY (Lord Gifford) said he did not feel at liberty to withdraw any part of the amendment, without further consideration. He would therefore move, That Progress be reported, and leave given to sit again on Monday.

MR. S. H. PARKER failed to see the necessity for adjourning the debate. He concurred with the amendment of the hon. member for Swan. The original resolution—so far as the mover of it was concerned—had been withdrawn; why, then, refer to it at all? Moreover, the latter part of the noble lord’s resolution was absolutely incorrect, for the House had never been “officially informed” by the Government that we were not a Crown Colony.

THE COLONIAL SECRETARY (Lord Gifford) said he felt bound to press his motion to report Progress.

SIR T. COCKBURN-CAMPBELL: What the right hon. gentleman wants, I suppose, is to receive instructions as to whether he is at liberty to withdraw certain words which are regarded by the House as offensive towards one of its members. I know he is acting under instructions; and, so far as I am concerned, I do not care whether what is considered to be offensive in the amendment is withdrawn or not; but I *do* object to its being put forward, and affirmed by this House, that we have been “officially informed” by the Government that—not being a Crown Colony—we need not employ the Crown Agents; for, as a matter of fact, we have never been so informed “officially.”

The motion to report Progress was then agreed to.

### THIRD READINGS.

The Loan Act, 1878, Amendment Bill, 1881, and the Oyster Fisheries Bill, 1881, were read a third time, and passed.

The House adjourned at mid-night.