

of this £5,000 upon a steam tug would have been a very desirable expenditure; but, without such being the case, and to have got this tug simply for the purpose of towing vessels in and out, would have been, in his opinion, a very unwise expenditure, and a very expensive plaything indeed for the Colony. As to the present Bill, he approved of the manner in which it was proposed to re-distribute this money, for he thought it was but fair that some of those districts who had derived no benefit whatever from the great bulk of this loan should have what was on all hands acknowledged to be their due.

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

#### SUPPLEMENTARY ESTIMATES FOR 1881.

On the Order of the Day for the further consideration of these Estimates in Committee, the item *Works and Buildings*, £1,963 10s., was reverted to.

THE COLONIAL SECRETARY (Lord Gifford) said that since this item was under discussion the other evening, he had been in conversation with the Commissioner of Railways, with reference to the amount set down under the head of "Working Expenses of Railway (£1000)," and, after going into figures with the Commissioner, he was prepared to increase the vote from £1,000 to £1,700. The Commissioner was perfectly convinced that with this increased vote he would be able to accomplish the work of the year. He would therefore formally move, That the sum of £1,000 be struck out and £1,700 inserted in lieu thereof.

Agreed to.

The vote, as amended, was then put and passed.

*Pensions*, Item £88 5s. 8d.; *Miscellaneous*, Item £9,030 5s. 8d.; *Unpaid Claims*, Item £605 12s.:

Agreed to without discussion.

Question—That the sum of £14,016 1s. 11d., as amended, stand as the total of the Supplementary Estimates—put and passed.

Estimates reported.

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

#### LEGISLATIVE COUNCIL,

*Tuesday, 9th August, 1881.*

Petition—Fencing Bill: first reading—Appropriation Bill (Supplementary), 1881: first reading—Administration of Estates Bill—Loan Act, 1878, Re-appropriation Bill: in committee—Oyster Fisheries Bill, 1881—Adjournment.

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

PRAYERS.

#### PETITION.

THE COLONIAL SECRETARY (Lord Gifford) laid on the Table a Petition from the settlers of the Blackwood, relative to the removal of the Magistrate of that district.

#### FENCING BILL, 1881.

MR. STEERE, in accordance with notice, moved for leave to introduce a Bill to regulate the Fencing of Land in Western Australia.

Leave given, and Bill read a first time.

#### APPROPRIATION BILL (SUPPLEMENTARY), 1881.

THE COLONIAL SECRETARY (Lord Gifford) moved the first reading of a Bill to provide for the payment of certain additional and unforeseen expenses incurred in the year 1881, over and above the Estimates for that year.

Motion agreed to, and Bill read a first time.

#### ADMINISTRATION OF ESTATES BILL, 1881.

MR. STONE, in accordance with notice, moved the second reading of a Bill to consolidate and amend the law relating to the administration of the estates of deceased persons, and to alter the succession to real estate in cases of intestacy. The Bill proposed to repeal, or partially repeal, five of the existing Ordinances relating to the administration of estates, and to consolidate the provisions of such Ordinances, by incorporating them with the present Bill, which, as regards some of the repealed Ordinances, he might say, merely re-enacted their provisions, without in any way altering their scope or intention, but clothing them in simpler and more concise language, in order to render

their meaning clearer not only to the legal profession but also, he hoped, to every man of ordinary intelligence. A reference to the schedule would disclose the nature of the Acts proposed to be dealt with. The Act abolishing the distinction as to priority of payment which now existed between speciality and simple contract debts was simply re-enacted without amendment, as also the Acts providing that, when any person dies possessed of land which at his death is charged with the payment of any sum of money by way of mortgage, the devisee, or person entitled, shall not be entitled to have such sum discharged out of any other estate of the testator, or intestate, unless he shall have signified a contrary intention. The Act making the real estate of deceased persons assets for the payment of debts (also consolidated with the present Bill) had been slightly amended—not in substance, but merely with a view to place the law upon the subject beyond doubt. The clauses bearing upon this question had not been worded by him, but were taken from a statute of one of the neighboring colonies, and would, he thought, if adopted by the House, admit of no doubtful interpretation. The Acts dealing with the matters referred to were the only Ordinances which the Bill proposed to consolidate and amend. The Bill, however, contemplated the effect of a most important alteration in the law of inheritance, namely, to place the real estate of persons dying intestate upon a similar footing, as regards its distribution, as personal property. He had long felt the importance of an alteration of the law in this respect, and many cases of hardship had come under his notice, as a member of the legal profession, in consequence of the law as at present in operation. In this Colony especially, where so many of the inhabitants were possessed of small blocks of land, particularly in the towns, which in most cases constituted the only property they possessed, and (he was sorry to say) where so many died intestate,—such an alteration of the law as this Bill contemplated would, he thought, be most desirable. The time of hon. members would be saved if he expressed his own views upon this question in the clear and concise language of a writer well known to the

members of the legal profession,—Mr. Joshua Williams, who, in writing upon this subject, said: “The distribution of personal estate on intestacy approaches far more nearly to the disposition which the deceased himself would probably have made than the descent of real property. A person possessed only of small landed property usually devises it to trustees for sale, with full power to give receipts to purchasers, and directs the division of the produce by his trustees amongst his children, in such shares as he may think just, with regard to the provision already made for any of them in his lifetime. He does not leave his younger children to beggary in order that his whole property may devolve to his eldest son, according to the course of the common law—a course pursued in no other civilized country in the world. Neither does he leave it to all his sons equally in undivided shares, thus inflicting an injustice on his daughters, and allowing all plans for the improvement of the lands to be checked by one dissentient voice, unless a partition should be resorted to, by which the property would be split up into parcels too small for the convenience of agriculture. If by any accident a man should die without making his will, it would seem to be the province of an equitable Legislature to make such a disposition of his property as would, in ordinary circumstances, most nearly correspond with his intention. It is true that when property is large it is usually entailed on the eldest son and his issue, subject to moderate portions for the younger children. This custom of primogeniture is suited to the institutions of our country, and to the habits of the class to which large landed property usually belongs, and the author has no wish to see it disturbed. The settlements, however, by which these entails are created are more frequently made by deed than by will. Nothing can be more different than the devolution of an estate to the eldest son under a family settlement and the descent of an intestacy to the eldest son as heir-at-law. In the one case he takes subject to the proper claims of the other members of his family; in the other he is bound to them by no obligation at all. There seems to be no method of making, in case of intestacy, any sort of disposition of landed

property which might be reasonably simple, and at the same time resemble an ordinary family settlement. If such a settlement be not made by deed, the owner has ample power of effecting the same object by his will. Intestacy, in fact, rarely happens to the owner of large landed property. The property which descends to heirs under intestacies, though large in the aggregate, is generally small in individual cases. When the wishes of all cannot be consulted, that which would have been the wish of the generality of intestates ought apparently to form the foundation of the rule. From a consideration of these circumstances, the reader may perhaps be induced to think that, if in case of intestacy, the rules for the devolution of real and personal estate were identical, and, with some slight variations, similar to those which now exist as to personalty, the law on this subject would be rendered both more simple and more just." Those were the learned author's words, and they clearly expressed his own (Mr. Stone's) views on the subject. Perhaps the alterations which the present Bill proposed to effect in the distribution of property would be rendered more apparent to hon. members if he were to cite one or two illustrations. As the law now stood, if a man died leaving a wife and no relations, one-third of his land went to his wife for life, and the rest to the Crown. Under this Bill, one-half would go to the wife absolutely, to deal with it as she liked at her death, and the rest would go to the Crown. He might here observe that, at present, in all cases of intestacy, where a wife was left, she only took a *life* interest, whereas, under the Bill now before the House, the wife would always take an *absolute* interest. If a man died leaving a wife, mother, brothers, and sisters, under the law as it stood at present one-third of his real property went to the wife for life, the rest to the eldest brother; but, under this Bill, one-half of the property would go to the wife absolutely, and the rest would be equally divided between mother, brother, and sisters. If a man left a wife, sons, and daughters, under the existing law one-third went to the wife for life, and the rest to his eldest son; but under the present Bill it was proposed that one-

third should go to the wife absolutely, and the residue be divided equally amongst sons and daughters. If only sons and daughters were left, and no wife, all the real property now went to the eldest son; whereas, under this Bill, it would be equally divided amongst sons and daughters. These cases were, he thought, sufficient to illustrate to hon. members some of the important alterations which the Bill, if adopted, would effect; and no hon. member could say that such alterations would not be more beneficial to the community than the mode of inheritance at present prevailing. There was another alteration contemplated in the Bill, with a view to simplify the transfer of land (under the Land Transfer Act), on the death of a proprietor, to his executor or administrator. It was proposed that, upon production of the probate, or letter of administration, the Registrar of Titles should simply make an entry in the books of the office, notifying the appointment of the executor or administrator, and, upon such entry being made, the executor or administrator (as the case might be) would become the transferee, within the meaning of the Act. The Bill also made provision for an allowance to be made to executors or administrators on passing their accounts, in consideration of their time and trouble, the remuneration proposed to be allowed being at the rate of five per cent. These were the main provisions of the Bill. As the measure involved such important alterations, especially in the law of inheritance, he would not ask the House to affirm its principles by agreeing to the second reading that evening, but would leave the matter in the hands of the House.

MR. S. H. PARKER moved, That the debate be adjourned until Friday, 12th August.

Agreed to.

#### LOAN ACT, 1878, RE-APPROPRIATION BILL.

Before the House went into Committee upon this Bill—which provides for the re-appropriation of a sum of £5,000 voted three years ago for a steam tug, which, afterwards, it was not considered expedient to obtain—

SIR T. COCKBURN-CAMPBELL craved the indulgence of the House whilst he referred to the item "Crane for Albany, £250," which the noble lord the leader of the Government, in moving the second reading of the Bill, stated the Government proposed to strike out. This intention, he believed, was the outcome of a misapprehension, which, in the interests of his constituents, he felt it his duty to remove. Hon. members were aware that the crane at Albany was smashed when the *Bacchante's* rudder was unshipped, and consequently it would be necessary to replace it. For some time past the Government had been trying to get back the jetty from the Albany Municipality, but the latter declined to transfer it. The Government, however, offered to mend the broken crane conditionally upon the Municipality agreeing to hand over the jetty to them, but the Municipal Council replied that they did not care to have the crane repaired at all—meaning that particular crane, which, in reality, had never been of much use. This answer, he was informed, did not refer to any other crane which might be provided for them, but to the one smashed the other day by the *Bacchante's* rudder. What little revenue the Municipality derived from the jetty was chiefly expended on it, and therefore they had no funds available for purchasing a new crane. He need hardly point out that, with two mail steamers regularly calling at Albany, and the shipping and unshipping of cargo constantly going on, they could not possibly do without a crane; and what the Municipality would like would be a travelling crane, which it was believed could be obtained for the very moderate sum of £150. Under these circumstances, he thought, if the Government adhered to their announced intention of striking off this item from the schedule, they would be treating the Municipality very unfairly. It was very seldom that he asked anything from the Council or the Government for his constituents, unless he considered the work one of real necessity, as was the case in this instance. He therefore hoped hon. members would support him in keeping this amount in the schedule.

The House then went into Committee on the Bill.

Clause 1—repealing the words "in-

cluding cost of steam tug," appearing in the schedule of "The Loan Act, 1878":

Agreed to.

Clause 2—re-appropriation of the money for the purposes enumerated in the schedule of the present Bill:

Agreed to.

*Schedule:* Roebourne Buildings, £2000:

MR. MARMION moved, as an amendment, that the item be struck out and the following inserted in lieu thereof: "Extension of South Jetty, Fremantle, £4,000; moorings and moving of buoys, Fremantle, £950." This would simplify matters very considerably, and save hon. members a great deal of trouble, inasmuch as by localising the works upon which the money should be expended, hon. members' thoughts would be localised, and it would thus be much easier for them to arrive at a conclusion, which he trusted would be a satisfactory one to himself and to the town of Fremantle. The intention of the Legislature when voting the £5,000 for a steam tug was, that the tug should be employed in affording increased facilities to the shipping at the principal port of the Colony, and this object would be equally attained, in another way, by the extension of the South Jetty, as now proposed. It was well known to hon. members that by extending that jetty a distance of about half the length of the present structure, fifty per cent. at least of the vessels which now visited Fremantle—beyond those that are at present able to come alongside—would be able to load and discharge their cargoes at the jetty; and he need hardly point out what an advantage that would be. He would also remind the House that the great bulk of the loan floated in 1878, and of which this £5,000 formed a portion, was for the construction of the first section of the Eastern Railway between Fremantle, Perth, and Guildford, and it was a well-known fact that a great deal of disappointment was felt and expressed with regard to the small amount of goods traffic on that line. He should like to point out to hon. members that by the extension of the South Jetty at Fremantle the present available traffic on the railway would be increased at least fifty per cent. more than it can ever be when the goods traffic, under existing circumstances, has been fully developed.

There would be fully fifty per cent. more cargo landed on the jetty than there is now, and this would correspondingly swell the traffic on the line, instead of, as at present, being diverted into other channels, in consequence of the railway being handicapped by reason of the charges for lighterage from the ship's side to the jetty, in the case of cargo landed at Fremantle; and by the opposition offered by the river steamers and lighters, in the case of cargo intended for Perth or Guildford. The increased traffic which the extension of the sea jetty at Fremantle would bring to the railway would, he maintained, of itself, far more than pay the interest on the cost of the extension. In addition to this he would draw attention to the fact that there was no public work in the Colony at the present time paying so well as this Fremantle jetty, yielding as it did quite ten per cent. on the outlay incurred in its construction. The further expenditure of the amount which he now proposed to devote for expenditure upon it, would, he had no hesitation in saying, yield an additional rental of some £300 or £400 a year, and, this being the case, he thought hon. members would agree with him that the money could not be more judiciously and profitably invested. He therefore appealed to hon. members, as the representatives of the public in that House, and as the guardians of the public purse, to assist him in obtaining this money for the purpose specified, rather than to apportion it as contemplated in the Bill, throwing a sop to this district, and a sop to that district, merely for the sake of allotting the money, instead of spending it upon a work which in every sense of the word would be a reproductive undertaking, and which, moreover, was within the scope of the intention of the Legislature when it originally authorised the raising of the loan for the purchase of a steam tug. In addition to this he would draw the attention of the House to the great want of any facilities whatever in the shape of moorings and buoys at this the principal port of the Colony,—a want which he earnestly hoped hon. members by their votes that evening would assist him in supplying. He might dilate for hours on the advantages and the benefits which would accrue from the expenditure

of this money in the manner which he had indicated, but he was afraid that no efforts on his part would induce the majority of hon. members to accept his proposal, if the statements which he had already put before them, and which were indisputable, would not do so.

Question put—That the item proposed to be struck out stand part of the Schedule:

Committee divided as follows:

Ayes	...	...	15
Noes	...	...	2

Majority for ... 13

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

NOES.  
Mr. S. H. Parker  
Mr. Marmion (Teller.)

The motion was therefore negatived.

*Albany Sand Patch*, Item £700 read:

Question—put and passed.

*Guildford Foot or Low Level Bridge*, Item £700 read:

MR. SHENTON moved, That this item be struck out. He did so for the following reason—he felt sure that so small an amount would be utterly useless for the construction of the proposed bridge, and the expenditure, therefore, would be simply a waste of money. If erected, the probability would be that it would be washed away by the first heavy winter's flood. From all the information he could gather, this bridge would only benefit about 25 people residing at West Guildford. There might have been some grounds for building it when there was no railway, but he thought there were none now—none, at any rate, to justify the expenditure of £700 upon a bridge that would only serve a handful of people, and which would probably be washed away on the very first occasion that the river rose above its level. If a platform were erected, in connection with the railway, that would answer every purpose, and, if this item were struck out, he would move that a sum of £75 be voted for the construction of a platform, which sum, he was informed

by the Commissioner of Railways, would be ample for that purpose.

MR. STEERE opposed the motion to strike out the item. He considered that the Government, at any rate, was pledged to the people of West Guildford, and had been for years past, that they should have a bridge. He could not call to mind whether the Legislature also was pledged, but he rather thought it was. He did not say, he could not say, whether it would be advisable to have a low-level bridge, but he did say that a bridge of some kind had been promised, and that promise ought to be fulfilled, now that there was money available to carry it out. The hon. member for Toodyay said there were very few people residing at West Guildford, and that it was not worth while going to this expense for the convenience of so small a number. It might be true that there were not many people there now, but he was led to believe that if this bridge were constructed, a great many more people would be likely to go there to reside.

THE COLONIAL SECRETARY (Lord Gifford) said no doubt the House as well as the Government was pledged to give the people of West Guildford this bridge, or, at any rate, some means of communication with the town. As far back as 1875 it was agreed that, in the event of there being a surplus of £400 in excess of the revenue, it should be expended upon this work. The Government were convinced, from what the Director of Public Works said, that the bridge could be constructed for the sum now proposed to expend upon it, namely, £700—if not a low-level bridge, they would have the alternative of a foot bridge.

MR. SHENTON: The noble lord forgets that in 1875 there was no railway going through West Guildford, and that one of the conditions attached to the proposed vote of £400 was that the Local Roads Board should also contribute their share towards the cost of erecting the bridge.

THE ATTORNEY GENERAL (Hon. A. C. Onslow): The mere fact of railway communication having been established in no way relieves the Government from carrying out its pledge to give the inhabitants a bridge.

MR. BROWN thought there could be no doubt that at one time the Council

authorised the Government to expend a sum of money with the view to give the inhabitants of West Guildford a means of communication across the river, but, as had been pointed out, that was at a time when that House had not provided for a railway to connect one side of the river with the other. Consequently, the circumstances of the case were now very different.

MR. MARMION, though not much in favor of the proposal, considered that as the House was virtually pledged to give the people of West Guildford a bridge, that pledge ought to be carried out. That such a pledge had been made, had already been shown, as hon. members would see on reference to *Hansard*, vol. iv., page 172. He did not mean to say that the work was one of actual necessity, but, if there was a sum available for the purpose out of this loan, he thought that, if any one had a claim to it, after the people of Fremantle came the inhabitants of West Guildford.

MR. STONE said the chief argument in favor of the item under review appeared to be the fact that the House had already pledged itself to provide a bridge in this locality, but he thought those hon. members who had so argued had forgotten altogether that when this pledge was given the present Council was not in existence. Many hon. members who had seats in the House now, had no seats when that pledge was given—himself amongst them. Was he to be bound by the votes or the pledges of a former Council, in whose proceedings he had taken no part? Was an in-coming Ministry to be bound by the pledges of an out-going Ministry? It had already been pointed out, as regards this particular pledge, that circumstances were not the same now as when this bridge was promised, and that a railway platform at West Guildford would answer every purpose.

MR. S. H. PARKER could not agree with the hon. member who had last spoken that they were not in any way bound to carry out the pledges of a previous Council. Although, as the hon. member very pertinently remarked, the present Council was not the same as that which had made this promise, still the Ministry here was a permanent Ministry, and that Ministry, with the full know-

ledge and concurrence of the Legislature, had made a certain pledge to afford means of communication between East and West Guildford. He did not think it rested with hon. members now, or, at any rate, it did not come with good taste from them, to repudiate that pledge; and, even if they could do so, without breach of faith, he did not think it was worth while, for the sake of £700, to initiate a policy of repudiation. He did not, however, intend to vote for the item as it now stood, and let it be said that the House had authorised the Director of Public Works to obstruct the navigation of the river. He would support it, if the words "foot or low-level" were struck out, leaving it to the Director himself, who was the responsible adviser of the Government, to decide what sort of bridge should be erected. If that officer took upon himself to erect a bridge which would obstruct the navigation of the river, those persons who were damned by his action would know how to proceed against him. He would simply vote that a sum of £700 be expended upon a bridge at West Guildford.

MR. RANDELL thought the question of pledge or no pledge was not what they had to consider. A pledge might be given under certain circumstances, and those circumstances might be so altered as to release the person who had given the pledge from the obligation of carrying it out. The question here resolved itself into this—was this bridge a work of necessity? If so, and the requisite funds were available, it ought to be built. But the objection which he took to the proposal was in respect of the character of the bridge intended to be constructed, believing as he did—he might say, feeling convinced, as he did—that a low-level bridge placed across the river at this spot would be an obstruction to the navigation of the river, and, moreover, being in such very close proximity to the railway bridge already erected, and with the current running at the rate of four or five miles an hour, it would prove a serious source of danger for any steamer to navigate the two bridges.

Question—That the item proposed to be struck out stand part of the Schedule—put.

Committee divided as follows:

Ayes	...	8
Noes	...	9

Majority against ... 1

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

The motion was therefore carried, and the item struck out.

*Court House, Fremantle, Item £800 read:*

THE COLONIAL SECRETARY (Lord Gifford) said that, before proceeding any further with the Bill, as hon. members had thought fit to strike out one of the items forming the schedule, he should move to report Progress, as he did not feel himself at liberty, in the case of such an important measure as this—a Bill for the re-appropriation of Loan money, for certain specific purposes,—to commit himself or his colleagues to any alteration of the schedule, without consulting His Excellency the Governor. The various works enumerated in the schedule had been decided upon by the Government after very careful consideration, and he was not prepared to acquiesce in any other proposal for the re-appropriation of the money, without having an opportunity of consulting His Excellency on the subject.

MR. CROWTHER said the literal meaning of what had just fallen from the right hon. gentleman the leader of the Government was this: if that House did not choose to accept what they brought forward, in its entirety, they (the Government) would, by moving the adjournment of the House, or some other means, seek to prevent hon. members from doing what they considered right in the interests of the Colony, and thus compel them to accept what the Government chose to offer them. If the noble lord was placed in such a position that he could not concede anything in deference to the wishes of that House which was contrary to the proposals submitted by the Government—and he (Mr. Crowther) was perfectly well aware that the Government, if they wished to act in that spirit, had the power to carry

out their object—but if that was the spirit in which the Council was to be met when it acted, as it honestly believed it was acting, in the present instance, in the best interests of the public generally, and if any means could be found for putting an end to this reign of coercion, he, for one, would be glad to assist in bringing it about.

THE COLONIAL SECRETARY (Lord Gifford) said the hon. member had entirely misunderstood him. If the hon. member would look at the object, and he might say the importance, of the Bill, he would see that, as the House had, in the exercise of that discretion which was vested in it, struck out one of the items constituting the schedule of the Bill, and thereby entailed the necessity for a further re-apportionment of the money, he (the Colonial Secretary), sitting there as he was, as the mouthpiece of the Governor, could not fairly be expected to commit the Government to any other distribution of this loan money than that proposed in the schedule. It was simply in order to enable him to confer with His Excellency on the subject, that he had moved that Progress be reported.

MR. BROWN: The noble lord told us a few minutes ago (in the course of the discussion on the vote for Guildford bridge) that if that item were struck out, the Bill would fall through, by which I understood the noble lord to mean that, in the event of this particular item being expunged from the schedule, His Excellency would veto the whole Bill. We have passed several items in the schedule, but the House, in its wisdom (as I think) has thought fit to strike out this vote, because it did not consider it desirable to spend the money in this particular way; and I see no reason whatever why the Government, as represented in the House, should not be prepared to go on with the remaining items on the schedule, and ascertain the feeling of hon. members with regard to them. That being done, I see no objection to Progress being reported, as there would then be £700 (the amount struck out) unappropriated, and it would be only fair towards the Government, and towards the noble lord himself, that he should have an opportunity of conferring with His Excellency as to the re-apportionment of that sum. In the

meantime, I see no reason why the Committee should not proceed to discuss the remaining items on the schedule.

THE COLONIAL SECRETARY (Lord Gifford) said he had no objection, on the part of the Government, in accepting the suggestion made by the hon. member for Geraldton, on the distinct understanding that he was not going to pledge himself as to the total amount of the schedule, or any re-apportionment of the vote struck out.

The item "Court House, Fremantle, £800," was then agreed to without opposition.

*Crane for Albany, Item £250:*

THE COLONIAL SECRETARY (Lord Gifford) moved, That this item be struck out, on the ground that since the Bill had been framed, the Government had discovered that there were certain expenses in connection with the floating of the loan, of which the £5,000 now being re-apportioned formed part, which had not yet been defrayed or provided for, and that it would be necessary to do so. Moreover, he could not say that the Government had been working on very friendly terms with the Albany Municipality with reference to this crane; they had not met the Government in that spirit which the Government expected they would, and consequently it had been resolved to withdraw the item.

MR. MARMION said, if he had understood the hon. baronet, the member for Albany, correctly, the jetty at Albany was still in the hands of the Municipality. If such was the case, he thought the usual thing was—so long as the Municipality received the jetty dues, it was expected of them that they should keep the jetty, and the appliances used upon it, in working order, out of the dues received in respect thereof. He did not know whether this was an exceptional case, because of the *Bacchante's* rudder having broken the crane. Possibly the Municipality had a good cause for action against the Imperial Government on that account. But if there were no peculiar circumstances about the case, he really failed to see why the Municipality itself, deriving as it did a certain amount of revenue from the jetty, should not repair the crane. The Fremantle Municipality, he was sure, would only be too happy to take over their jetties on the same terms, and



to keep them and the cranes upon them in repair.

MR. BROWN said the noble lord, the leader of the Government, had given two reasons for striking out this item—one was because no provision had been made for some expenditure in connection with the floating of the loan, and the other was because the Government and the Municipality were not on friendly terms. He must confess, he failed to see any reason in either of these grounds. The question to be considered was, whether this crane was necessary? No one would deny that a crane was absolutely necessary on such a jetty as that at Albany, and any one who had seen the present crane must have noticed that it was almost worthless for the purposes for which it was required.

MR. STEERE said he understood from the hon. member for the district that the revenue derived by the Municipality from this jetty was only about £60 a year. He thought the hon. member had made out a very good case on behalf of the Municipality, and that the House would be prepared—if there was no money available out of this loan to provide a crane—to support a sum being placed on the Estimates for that purpose.

MR. S. H. PARKER pointed out that as the Committee had struck off £700 out of the Bill, provision might be made out of that sum for a crane at Albany. As to any unfriendly relations existing between the Municipality and the Government, surely that was no reason why justice should not be done. He regarded the Municipality of Albany as a most independent body, which would not toady to the Governor or anybody else, and he thought it was the duty of the House to support such an independent body of men.

THE COLONIAL SECRETARY (Lord Gifford) said if the House was satisfied that it was necessary to provide this crane, a sum might be placed on the Estimates for that purpose.

MR. SHENTON thought if the Municipality received the jetty dues they ought to keep the jetty in repair and the crane in working order, but if, as appeared to be the case, the Municipality did not care for the jetty dues and the management of the jetty, the best thing they could do would be to let the care of the

jetty revert to the Government. He would be prepared then to support a vote for this crane.

MR. RANDELL thought it would be recognised by all parties that this was an exceptional case, the crane heretofore in use having been broken by H.M.S. *Bacchante*. If the Government did not see its way clear to provide for the expenditure out of the present Bill, he, for one, would be prepared to support a vote on the Estimates for this particular purpose.

SIR T. COCKBURN-CAMPBELL said he would be quite satisfied, so far as he was concerned, if the right hon. gentleman, the leader of the Government, gave them his assurance that a sum for this purpose would be placed on the Estimates.

MR. STONE hoped the Government would do no such thing. If the Municipality thought the jetty was not worth having, let them throw it on the hands of the Government, and then he should be quite prepared to vote a sufficient sum to provide the necessary crane; but, so long as the Municipality retained the control and management of the jetty, and derived a revenue from it, in respect of dues and tolls, he failed to see what claim they had upon the Government or the Legislature to keep their crane in repair.

THE COLONIAL SECRETARY (Lord Gifford) said he was not then in a position to say that the Government would place a sum on the Estimates for this purpose, and possibly the best course to adopt, under the circumstances, would be to report Progress.

MR. STEERE thereupon moved, That Progress be reported, and leave given to sit again next day.

Agreed to.

#### OYSTER FISHERIES BILL, 1881.

THE COLONIAL SECRETARY (Lord Gifford), in moving the second reading of a Bill for the protection of oysters and the encouragement of oyster fisheries, said the Bill was intended to conserve these bivalves, by means of licenses, the appointment of inspectors, and the framing of regulations. They had been found in large quantities in the neighbourhood of Albany, but, owing to the absence of any regulations for their protection, the Colony derived little or no benefit from the fisheries, which, in other countries,

when properly looked after, yielded a considerable revenue. Looking at the great destruction now going on, owing to the absence of any prohibitory regulations for conserving the beds, the Government felt it incumbent to introduce the present Bill, which it was hoped would have the desired result. The Bill, it would be observed, empowered the Governor to issue licenses to the owners of land bordering on the sea or any estuary—or to any other persons with the consent of such owners—to plant oyster beds, and to specify the seasons during which oysters might be fished. In the event of the Governor not being satisfied that the licensee was not properly cultivating the oyster ground, His Excellency would be empowered to revoke the license, and to appoint inspectors for the purpose of carrying out the provisions of the Act. The Bill also gave the Governor-in-Council power to frame regulations for the management and protection of public oyster fisheries, and to determine the seasons during which oysters may be fished and sold, and otherwise to provide for the protection and conservation of the fisheries. He did not apprehend there could possibly be any great objection to the Bill. It was proposed to pay the inspectors out of the fines recovered under the Act.

The Bill was read a second time, without debate, and its committal made an Order of the Day for Wednesday, 10th August.

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

## LEGISLATIVE COUNCIL,

*Wednesday, 10th August, 1881.*

Defence of King George's Sound—Goats Bill: third reading—Consideration of Message No. 6, re employment of Crown Agents—Consideration of Message No. 7, re Timber Concessions to an English Company: Referred to Select Committee—Message (No. 10), re Protection of Natives in the Northern Districts—Message (No. 11), re Coastal Steam Service—Message (No. 12): Forwarding return—Loan Act, 1878, Re-appropriation Bill—Points of Order—Oyster Fisheries Bill: in committee—Adjournment.

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

### PRAYERS.

### DEFENCE OF KING GEORGE'S SOUND.

MR. STONE, in accordance with notice, moved, "That an Humble Address be presented to His Excellency The Governor, respectfully requesting His Excellency to furnish the Council with such information as he may be pleased to afford on the action taken by the Imperial Government in reference to the defence of King George's Sound, and also to inform the Council whether it is true that Col. Scratchley, R.E., leaves Melbourne for Albany on the 15th August, for the purpose of reporting to Her Majesty's Government on the defence of that Harbor, and that an officer of the Colonial Government has been directed to hold himself in readiness to meet Col. Scratchley at Albany." The hon. member said, although certain information with reference to this same subject had been asked for by the hon. member for Perth, the other evening, and a reply was given to the hon. member's question, still, he did not think that reply was all that hon. members would wish to have. The insufficiency of the reply made might have arisen from the fact that the hon. member did not give any notice of his question, and consequently the Colonial Secretary had not been able to obtain further information on the subject—for it should be borne in mind that the Colonial Secretary, under our present form of Government was not a responsible Minister, but simply an executive officer of a Crown Colony. The question, moreover, had reference to a question of Imperial rather than Local concern—though undoubtedly it was one of considerable interest to the public of this