

that all stock must be accompanied by a certificate to the effect that the stock were free from disease, or indication of disease, when placed on board; others gave the Governor power to issue proclamations restricting and regulating the importation of stock, and for the inspection of newly-introduced stock. He could not see any danger of disease being introduced if the Acts already on the statute book were acted upon. As to our Northern ports, power was given to the Governor in Council at the present moment to be able to see that there was proper protection at any "port" within the meaning of the Customs laws; and, in the absence of such protection, any port could be blocked. It was said that we could get all the stock we wanted from the other colonies; but why should a man be compelled to go to the other colonies for his cattle?

MR. LAYMAN thought the Government had already protected themselves very well against the introduction of cattle disease, and that the House might safely pass this resolution. He was in the House when the present restrictions were put on, and, he confessed, he did not like it at the time; and the only thing that made him give way was the argument that it would assimilate our laws with those of the other colonies. Now, it appeared, those colonies had seen the folly of what they did, and of what they induced us to do; and he thought we would be wise in retracing our steps, as they had done.

MR. MARMION said it must be borne in mind that we never thought of imposing these restrictions until we had been pressed to do so by the other colonies. The necessity of doing so would probably never have occurred to us.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he had no objection to accept the amendment suggested by Mr. Morrison.

MR. RICHARDSON said although it might have been a wise thing to follow the advice and example of our neighbors when we placed these restrictions on, no good reason had been shown that it would be a wise thing for this colony to follow them in removing the restrictions, simply because interested motives had been allowed to prevail with our neighbors. Notwithstanding all these wonder-

ful Acts of Council referred to by the hon. member for the Greenough, it appeared that Acts of Council afforded no protection in New South Wales, when scab was introduced there from America, and it cost them £60,000 to eradicate it. If we worked our stock up to the standard of the other colonies, we should have no necessity for going to Europe at all. Even England, with all her protective legislation, and all her preventive measures, was getting disease introduced from other European countries. He hoped himself the resolution would be negatived.

The resolution, as amended, was then put, and, upon a division, the numbers were—

Ayes ..	...	...	10
Noes ...	...	...	5

Majority for ... 5

AYES.	NOES.
Mr. Congdon	Mr. A. Forrest
Captain Fawcett	Mr. Harper
Hon. J. Forrest	Mr. Pearso
Mr. Hensman	Mr. Venn
Mr. Layman	Mr. Richardson
Mr. Marmion	(Teller.)
Mr. Morrison	
Mr. Scott	
Hon. C. N. Warton	
Hon. Sir M. Fraser	
(Teller.)	

The resolution was therefore adopted.

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

LEGISLATIVE COUNCIL,

Wednesday, 11th April, 1888.

Rules of the Supreme Court—Goods Shed at Bunbury—Boring plant for Yilgarn—Mining Companies Bill: first reading—Messrs. C. & E. Millar's Cable proposals (Message No. 18): referred to select committee—Municipal Footpaths Bill: third reading—Appropriation Bill, 1888: in committee—Victoria Public Library Bill: Proposed amendments (Message No. 17)—Re-appropriation of Balances of 1884 Loan—Adjournment.

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

PRAYERS.

RULES OF THE SUPREME COURT.

THE ATTORNEY GENERAL (Hon. C. N. Warton) laid on the table the Supreme Court Rules, and the schedule of fees, which, he said, it was proposed to bring into force in July. The hon. and learned gentleman also read a letter from His Honor Mr. Justice Stone with reference to the new Rules.

GOODS SHED AT BUNBURY.

MR. VENN, in accordance with notice, asked the Director of Public Works if it was the intention of the Government to open, for public convenience, the goods shed at Bunbury, erected for the protection of goods shipped from and received at that port, and completed nearly a year ago?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said a wharfinger had recently been appointed at Bunbury, and the new goods shed would be placed under his control, and opened immediately for the public convenience.

BORING PLANT FOR YILGARN.

MR. HARPER asked the Director of Public Works whether the boring plant recently forwarded by the Government to Yilgarn comprised the tubing requisite for testing below salt water, should that be met with?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said the boring plant sent to Yilgarn comprised tubing sufficient for testing below salt water met with at any reasonable depths—say up to 300 feet.

MINING COMPANIES BILL.

Read a first time.

MESSRS. C. & E. MILLAR'S CABLE PROPOSALS (MESSAGE NO. 18).

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said in order that the proposals made by Messrs. C. & E. Millar in connection with laying down a cable from our North-West coast to India should receive full consideration, and following the practice adopted with regard to similar proposals, he had to move the following resolution, which he thought would meet with approval: "That Message No. 18, respecting Messrs. C. & E. Millar's proposal to lay

a submarine cable connecting the Western Australian telegraph system with that of India be referred to a select committee; and that such committee consist of Messrs. Shenton, Marmion, Venn, Randell, and the mover." Mr. Shenton's name, he said, was substituted for that of Mr. Parker on the notice paper, inasmuch as the latter gentleman was unable to act, owing to the pressure of private business.

MR. A. FORREST said, before the motion was put, he would like to point out that the question affected the North, and that no member north of Perth was included on the committee. He had no wish to act himself, but it was due to the North that at any rate one northern member should be on the committee.

THE SPEAKER, before putting the first part of the question, said it was not competent for a member to decline to sit on a select committee, and he could not make the suggested alteration as regards the omission of Mr. Parker's name.

On the suggestion of **MR. MARMION**, the difficulty was got over by the addition of Mr. Shenton's name; and, on the motion of the Colonial Secretary, **MR. A. Forrest's** name was also added.

The motion was then put and passed.

MUNICIPAL FOOTPATHS BILL.

Read a third time and passed.

APPROPRIATION BILL, 1888 (AGREEMENT BETWEEN THE GOVERNMENT AND THE GENERAL MANAGER OF RAILWAYS, AND THE SUPERINTENDENT OF WORKS).

On the order of the day for the consideration of the Appropriation Bill in committee,

MR. SHENTON said that when the Estimates were under discussion the Colonial Secretary promised that before the Appropriation Bill was passed he would give the House some further information as to the terms upon which the services of the Superintendent of Works (**MR. POOLE**) and the General Manager of Railways (**MR. CLAYTON MASON**) were to be continued.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said the matter had not been settled yet. Of course it was understood that whatever the arrangement would be it would only be for the remainder of the current year. If the

existing agreement with these gentlemen should go on undisturbed after the expiration of their term of three years—which did not expire for two or three months yet—he presumed it would then go on for another two years, but, so far as he understood, it was only proposed to enter into a provisional agreement with these two officers, until the end of the current year. But nothing had been decided upon yet. Notice, however, had been given to them both, that their services under their present agreement terminated on a certain date.

MR. SHENTON thought it was very desirable they should have something on record as to the exact status of these officers in the service. He said so because of the dispute which arose the other day as to the position of the Commissioner of Railways, with regard to which there was an entire difference of opinion, the Commissioner maintaining he was on the permanent staff. He thought there should be a definite understanding that the House in voting the salaries of these two officers for the current year did not pledge itself in any way to continue doing so; and that when the Estimates for next year came before them, during the winter session, the House would have the right, if it thought fit, to strike out these salaries, neither of the appointments being fixed appointments.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said if it was the wish of the House that notice should be given to these two officers that it was only during the currency of this year their services would be required, it would be done.

MR. SHENTON said he understood these officers were under the impression that if they went on for this year—after the expiration of their three years—they could demand to be continued in the service until the completion of the longer term of five years. Therefore there ought to be some definite understanding. There might be a change in the constitution before then, and he did not think any incoming Government should be hampered by such an arrangement.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) did not know whether the hon. member for Toodyay was speaking with the authority of the House in this matter. The Government

would no doubt make the best arrangement it could with these gentlemen.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said, as to the coming change of Government, neither of these officers could be regarded as political officers, such as the Attorney General for instance; but he presumed that under any form of Government they would want a Superintendent of Works and also a General Manager of Railways, and he believed both these gentlemen were very efficient officers.

MR. SCOTT said that when the Estimates were under consideration he expressed himself as opposed to the retention of the Superintendent of Works, not from any personal reason, but on account of the number of officials, and the extravagant scale of salaries in the Works Department. He thought so still. He also thought that the post of General Manager of Railways might be amalgamated with some other office. He quite agreed with the hon. member for Toodyay in the remarks that had fallen from him as to the approaching change of Government.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) suggested that a resolution expressive of the views of the House on the subject should be submitted, so that the matter might be discussed and a decision arrived at.

MR. MARMION submitted it was the duty of the Executive Government to recommend to members on that side of the House whether certain officers should be retained in the service or not, and not seek to throw the odium and the responsibility upon the non-official members. The duty of the elected members was to criticise the actions of the Executive, and not to suggest whether this or that officer's services should be dispensed with. The Government, it appeared, had not the courage to dispense with the services of these two officers, and strike them off the Estimates; they wanted the suggestion to come from that side of the House, so that they might have an opportunity of informing these gentlemen that the proposal did not emanate from the Government but from the elected members in that House. He thought this state of things should not be continued, and that the Government when they deemed it necessary to exercise economy

should not consider persons, but boldly adopt the right and proper course. In the case of these particular officers, it was the duty of the Government to say whether they proposed to continue their services or dispense with their services, and not come to that House fishing for a resolution.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) should like to know how these two officers came to be appointed—were they not appointed in pursuance of an express resolution of that House? What had happened since, for the Government to go and tell them, “we don’t want you?” What had there occurred in the circumstances of the colony that we should no longer want a General Manager of Railways? Were not our railways increasing in length almost every year, and did we not hope to see them continue to extend? If it was thought necessary we should have a General Manager three years ago—and the House thought so—what had happened to induce them to think it was not necessary now? The same as regards the Superintendent of Works. The colony some three years ago borrowed half a million of money for public works—and we had spent it, he believed; but were we not going to have any more public works? If the colony continued to exist, it must stand to reason that it would have some public works requiring superintending. The Government could not be charged with want of courage in this matter. They had brought forward their Estimates, and on those Estimates provision was made for the salaries of these two officers for the current year, which clearly showed what the intention of the Government was. For his own part—he was speaking not on behalf of the Government now, but speaking for himself—he thought it would be very wrong to do away with the services of these two officers.

MR. MARMION said he had never stated that the services of either of these two officers were unnecessary. He simply wished to place the responsibility upon the proper shoulders, to say whether they were necessary or not. The Commissioner of Crown Lands had taken upon himself, for the first time, that evening to say that they were necessary.

MR. SHENTON said the only reason

why he had brought the matter forward was that the House might know the exact position of affairs as regards these two officers, and so that there should be no mistake. He thought hon. members were agreed that unless some other public works were going to be carried out, this department would stand cutting down very much. In voting the salaries of these officers, in previous years, one half was charged to loan account and the other half to the general revenue; but, now that the loan funds were pretty nearly exhausted, the whole of their salaries were charged to the revenue account; and, considering the present state of our revenue, this was a matter requiring some little consideration, especially when they found the Government cutting down the vote for “Works and Buildings” to a minimum, and that all the money on the Loan Estimates would be spent this year, and that the Government had no intention of bringing forward another Loan Bill.

MR. A. FORREST thought they had spent quite enough time in discussing the position of these officers the other day. If the colony was ever going to have public works again, it must have a competent officer to superintend them, and, so long as we had railways open for traffic, we must have a General Manager, in whom we had confidence; and he believed both these officers were men in whom this House had confidence. He should be sorry to think that, even under the new constitution, it should be considered necessary to dispense with or replace them.

MR. HENSMAN said it appeared to him that the matter was not so important, whether the money was voted for the payment of these officers for the year, as the other question—whether in voting this money they were placing gentlemen on the permanent staff who were not on it before. If it was to be argued that by voting a salary for any particular officer they were putting him on the permanent staff, he must differ from it, altogether. He did not think it could reasonably be so contended. These matters were matters of contract; they were not matters of personal feeling. There were certain persons who were placed on the permanent civil service staff—some as members of the Executive and some in other

capacities—and there were others appointed, by regular agreement, which did not make them members of the permanent staff. Two such officers were the Commissioner of Railways and the Superintendent of Works, and they were both appointed about the same time, under special contracts, which provided that they were to be appointed for a term of three years certain (which term would expire in the course of a few months), and, at the option, he believed, of the Government, they might be retained for a further term of two years. If any one should suppose or say that, simply because they had their salaries voted on the Estimates, they were placed in some different position, outside their contract, he would be taking what seemed to him a peculiarly erroneous view of the law, and of the justice of the matter. If these officers passed over their period of three years without receiving (so to speak) notice, they would in equity remain on the staff, he should imagine, another two years, according to their original contract. But to argue that because the House voted their salaries for another year, or even an increase of salary, they thus became members of the permanent staff, was contrary to his ideas of what constituted a contract. With regard to the General Manager of Railways, he did not know in what exact position that officer stood, or what were the terms of his contract; but he knew he had been in the service of the Government for a considerable number of years; and this year they had voted his whole salary, for the first time, on the General Estimates. But he could not think that in any way altered the tenure of his office. He thought the hon. member for Toodyay was quite right in raising this question. They had seen what misunderstanding might occur, in the case of another officer, and it was very desirable there should be no more misapprehension.

MR. RICHARDSON presumed, then, it was clearly understood, as regards these two officers, that if the House voted their salaries for this year—which would go beyond their term of three years—they were to consider themselves as having a right to be employed for the remaining two years of their term.

MR. MARMION said there were

special circumstances connected with the appointment of the Commissioner of Railways and of the Superintendent of Works. The colony was then entering upon large public works, out of a loan of half a million of money—altogether beyond anything that had been in contemplation in previous years; and, in order to show that the appointments were special appointments, the Government in paying their salaries paid one half out of loan money and the other half out of general revenue. The circumstances of the colony at the present moment were entirely changed. We had spent nearly the whole of our loan money, and the Government did not appear to have any intention of again entering the loan market in the immediate future, while, on the other hand, the vote for "Works and Buildings" had been cut down to a minimum. Therefore the special circumstances that called into existence the services of the Superintendent of Works at any rate—we had a Commissioner of Railways before—having ceased, it might have been expected that the Government would either have dispensed with the services of that officer, and also the General Manager, or given special reasons for retaining their services. It was no good for the Government to take shelter behind the mere fact that they had disclosed their intentions as regards these officers by placing their salaries on the Estimates. They took care to protect themselves by giving these officers notice. Why did not the Government come forward and say: "We propose dispensing with the services of these two officers at such or such a time, as we don't require them any longer," or, on the other hand, say: "We propose continuing their services for the remainder of their term of five years, as we cannot dispense with their services." The Government had not the courage to adopt either of these plain courses, but wanted the House to take upon itself the responsibility and the odium of doing away with their services, so that the Government might shelter itself from all blame in the matter. He regretted the action which the Government had thought fit to adopt in this instance. Even now the House did not appear to know the exact relations between these officers and the Government.

MR. SCOTT thought the whole thing

would be settled if the Government, when they made a fresh agreement with these officers at the close of their three years, made them clearly to understand that their services were continued simply under a yearly agreement, terminable at the option of the Government.

The matter then dropped.

Clauses 1 and 2:

Agreed to.

Schedule, preamble, and title:

Agreed to.

Bill to be reported.

VICTORIA PUBLIC LIBRARY BILL (MESSAGE No. 17; p. 358, ante).

On the motion of the ATTORNEY GENERAL, the House went into committee to consider the amendments proposed by His Excellency the Governor in the Victoria Public Library Bill.

Clause 2—"For the establishment, maintenance, and government of the said Library there shall be not fewer than five nor more than seven trustees, who shall be from time to time appointed and who may be removed by the Governor."

THE ATTORNEY GENERAL (Hon. C. N. Warton) moved, in accordance with His Excellency's message, that after the word "appointed" the words "by the Governor" be inserted.

MR. HENSMAN said he did not agree with any portion of the Message, and he would, shortly, state why, so that the committee might see whether there was any solid foundation or not for his objection. The bill had been sent back in order to see whether the appointment of trustees of this library should be made by the Governor himself, without consultation with the Executive Council; also whether the annual report of the trustees should be made to the Governor himself, and not to the Governor and the Executive Council. He thought both these positions were wrong, and that so far from the bill being unconstitutional, as suggested by the Governor, he thought the House was quite right when it amended the bill and insisted that the appointment of these trustees should be left to the Governor in Council. The position of the Governor of a Crown colony was clearly defined, and his powers were entirely limited by the Commission given to him by Her Ma-

esty. The Governor, in his Message, had raised this as a constitutional question, and he (Mr. Hensman) as a constitutional lawyer had also raised the same question. The matter of the appointment of these trustees was, in itself, of little importance, but the principle involved was an important one. The Governor's Commission gave him certain powers subject to the Letters Patent and the Royal Instructions; and, on turning to the Royal Instructions, he found, from clause 9, that the Governor, as regards appointments, was bound in all cases to consult his Executive Council. Beyond his Commission, the Governor had no more power in this colony than any private individual. The Letters Patent gave him the power to appoint officers, subject to the Royal Instructions, which said that in all cases he should consult his Executive Council, except (1) in cases of such a nature that the service would sustain considerable prejudice by reason of such consultation—and no one could consider that such would be the case as regards the appointment of these trustees; or (2) where the matter was of too unimportant and trivial a character to render such consultation necessary—the House, in the appointment of these trustees, did not consider the matter so unimportant, for it purposely altered the bill so as to vest these appointments in the Governor in Council; or (3) where the matter to be decided was of too urgent a nature to admit of the Governor consulting his Executive Council. There was a further power given to any member of the Executive to record his dissent; and, when the Governor declined to act upon their advice, he had to report the matter to the Secretary of State. This showed that the Governor of the colony was not the despotic ruler which some people would have them believe, and that the power of making appointments was vested in the Governor in Council, and not in the Governor himself. He thought it would be a very dangerous thing to put in the hands of one man, who was here to-day and gone to-morrow, such a power, without requiring him to consult those who may have been here for many years and who possessed far more local knowledge than the Governor was likely to possess. To hear some people talk, one

would really think they delighted to be under the power of one man, whom they set up as an object almost to be worshipped. With regard to the appointment of these trustees, it could not be said that the matter was one which came within the three exceptions he had referred to, when the Governor had the right to act without consulting his Executive. It was no argument to say that this arbitrary power had been exercised in the past, and that the practice had been for the Governor to appoint, without the advice of the Executive Council. The Governor said that the bill, as amended by the House, was unconstitutional; he (Mr. Hensman), as a constitutional lawyer, maintained it was not so. Because, simply, a thing had been done in the past, that did not make it necessarily right, or constitutional, or legal. He believed that, as a matter of fact, in these cases the Executive Council had been consulted very much more during the later years of the present Administration than during its earlier years. [The COLONIAL SECRETARY: No, no.] He knew the Governor had been informed by Lord Derby, in a despatch, that he was to consult them in all matters of administration and government, and that he had been told it was his duty to consult them, and that the members of the Executive ought not to take their seats in that House without being fully cognisant of the intentions of the Governor. It was said in the Message that the bill as it now stood was not in accordance with the existing practice. He differed from that statement altogether. He would refer to some of the Acts of that Council in support of his contention. He would commence with the year 1883, and the Aboriginal Offenders Act. The 13th clause of that Act dealt with the appointment of magistrates, for certain purposes, and the wording of the clause was as follows: "It shall be lawful for the Governor, or officer for the time being administering the Government of Western Australia, with the advice of the Executive Council," to appoint, etc. That, it might be said, was the appointment of a paid officer—he should presently distinguish between that and the appointment of a trustee. In 1884 the House passed a Land Quarantine Act, and the 2nd clause of that Act

provided that, "It shall be lawful for the Governor in Council, from time to time, and also in any case which may appear to constitute a case of special emergency, at a distance from Perth, for any person or persons authorised by the Governor in Council"—etc. The whole Act was introduced for defining more clearly the powers (in the words of the preamble) "which may be exercised by the Governor in Council" to prevent the spreading of infectious disease, and the appointment of the proper authorities. In 1885, again, the House passed an Act to amend the Northern District Special Revenue Acts, and that Act, dealing with the appointment of licensing authorities, said, "The Governor, with the advice of the Executive Council, shall have power to appoint"—etc. He had shown, then, that the Governor was in error when he said in his Message that the present bill was not in accord with existing practice and legislation. The practice had been to give this power of appointment to the Governor in Council, and not to the Governor himself. Beyond that, the Letters Patent and the Royal Instructions (which the hon. member read) enjoined the Governor to consult his Council in the matter of these appointments. As regards the trustees of this library the matter, perhaps, was not of much importance, seeing that at present they had only the foundation stone and an empty room to look after; but the principle involved was an important one, and, in the future, perhaps these trustees might have a flourishing institution committed to their charge. He did not know why the Governor should have deemed it necessary to have sent this bill back for amendment, but this he did know—that, in the appointment of officers who had to look after money voted by that House, it was exceedingly desirable they should be made not by one person alone, but by that person acting with the advice of the Executive Council, the members of which were as competent as himself to exercise that power. This was not the question of the appointment of a paid officer, such as Governors generally liked to keep in their own hands, in the way of patronage. This related merely to the appointment of trustees of a public institution, honorary persons whose duty it would be to man-

age the public property of that Council. The House had amended the bill, in committee, giving the power of appointing these trustees to the Governor in Council, and the Governor now sent back the bill to them, to eat their words. Were they prepared to do so? Were they going to stultify themselves by going back, and giving this power to the Governor himself? He hoped the committee would insist upon its amendments. If the Governor were a lawyer he should have been inclined to bow with some respect to his opinion upon constitutional questions; but he claimed to have as much knowledge of constitutional law as the Governor did, and, both as a lawyer and a plain man, he took the words of the Letters Patent and the Royal Instructions as he found them; and why should they go out of their way to alter this bill, in order to let it be thought that the Governor had more power than he really had. He thought they ought to take their stand upon what they believed to be the law—it could not be said that the contrary was the practice. The question was not one of practice; the question was—what is the law? He had already shown what the existing practice and legislation as regards appointments were, and why should they depart from the practice and the law in this instance, when they had deliberately amended the bill so as to bring it into harmony with practice and legislation? This Victoria Library, he presumed, would be supported out of the funds of the colony, voted by that House, and he would venture to suggest that that Council should have the appointment of these trustees, and that the bill should be amended accordingly. That Council would remain long after this or that Governor had departed, and he should be quite prepared to alter the bill to that effect.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said no one could accuse the hon. member for Greenough of having a small opinion of himself. The hon. member spoke of himself as a lawyer and as a plain man. He knew the hon. and learned member as a lawyer, but whether he was a plain man or not, he was not prepared to say. The hon. member's last suggestion—that they should proceed to alter the bill in a direction other than that indicated by the Governor in his

message—was altogether contrary to Parliamentary law; so that, however great a lawyer the hon. and learned member might be in some branches of the law, he had shown himself somewhat ignorant of the law of Parliament. But, as a lawyer, the hon. member must know this principle of law—that where the special was stated, the special controlled the general. His hon. and learned friend had read, in a most ingenious manner, certain extracts, as to the Governor's instructions and his powers of appointment, and his duty to consult, in some cases, his Executive Council. But he would remind the hon. member that this question of appointments stood by itself, and was not included in the paragraph which enjoined the Governor to consult his Executive Council. The question of appointments being specially disposed of, there was a general principle, that the Governor was to consult the Executive in all matters—that was to say, in all matters not otherwise specially provided for. There was no injunction in the Royal Warrant nor in the Royal Instructions as to the Governor having to consult the Executive as regards appointments. It was a well known principle of law that where you had general words they were controlled by special words. The special words in this case referred to the appointments which were to be made by the Governor himself, and no loose language referring to all other matters could be included in that which was referred to by these special words. As to the practice, the hon. member said he did not care what the practice had been—he stood by the law. As a lawyer, the hon. member must know that practice, to a certain extent, was law; and custom was law, to a certain extent. Our common law, to a certain extent, was founded upon custom and practice. The hon. member had pointed to three Acts of Council in which the House had provided that, as regards certain appointments, the power should vest in the Governor in Council. But these Acts were the exceptions to the general practice. The mere fact that it was necessary to make such a special provision showed that it was the exception to the general rule. These Acts controlled the practice, in the same way as the special controlled the general.

MR. SCOTT said the House made a particular point of having the appointment of these trustees vested in the Governor in Council. There was a feeling among some hon. members that the House itself should have a voice in these appointments, in the same way as the appointment of the governors of the High School; and he, for one, should have supported such a provision. But the House, after careful consideration, decided that the appointments should rest with the Governor in Council, and the bill was amended to that effect. Now they were asked to eat their own words, and to give this power to the Governor himself. He hoped the committee would adhere to its original proposition.

MR. PARKER thought all members would agree that it was of very little importance whether the appointment of these trustees was left to the Governor or to the Governor in Council. If they agreed with the hon. member for Greenough, the Governor was bound to consult his Council in these appointments; therefore no legislation was required on the subject. But certainly there seemed to be a great deal in the argument of the Attorney General, that the three Acts referred to by the hon. member were exceptions which proved the rule, and that, generally speaking, these appointments were vested in the Governor, and the Governor alone. Personally, he did not care which it was. He thought it was a pity that the time of the House should be wasted in discussing the question of "one man" Government. When the hon. member for Greenough inserted in the Notice Paper certain resolutions dealing with the Constitution Bill, the hon. member provided, in one of those resolutions, that there should be a Governor, appointed by the Queen. Apparently, the hon. member had no objection to be governed by one woman, but a strong objection to be governed by one man. The appointment of the Governor was to be vested in the Queen herself, and not in the Queen in Council. The hon. member was somewhat inconsistent. The question at issue here was one of such very small importance, the appointment of these trustees, that he did not think it was worth while opposing the amendment.

MR. HENSMAN said the remarks of

the Attorney General constituted no argument whatever. The hon. gentleman said a good deal about the general and the special, which had nothing to do with the case in point. The hon. member for Perth said it was unnecessary to insert the words "in Council," as the Governor was bound to consult his Council. But they knew that Governors did not always consult their Council, and that the Secretary of State had sometimes ordered them to do so. That House, having deliberately and advisedly put in those words in the bill, could not consistently agree to take them out again. If the House receded from the position it had taken up in this matter, it would not be placing itself in a very dignified attitude. Although it might be a small matter in itself, it appeared it was considered important enough by the Governor to make a great point of it; and he thought it was important enough for that House to devote a few minutes to discussing it.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said the Colonial Office Regulations over-rode all commissions and letters patent, and were strictly followed by every Governor, and, according to these Regulations, in colonies such as ours the power of appointment was vested in the Governor, subject to the approval of the Secretary of State. It was simply a distortion of facts for an hon. member to pick out one paragraph from the Governor's Commission, another from the Letters Patent, and another from the Royal Instructions, simply to suit his own purpose and with a bad intent.

MR. HENSMAN did not know what the Colonial Secretary meant by "a bad intent." He passed it over. As to the Colonial Office Regulations, those referred to appointments in the public service; but these were trustees and honorary appointments. If that House chose to eat its own words, because the Governor sent back the bill, he was sorry for it, though he would be none the worse himself.

MR. MARMION said, so far as he understood the Governor's Message, His Excellency wanted to have these appointments in his own hand, and removed from the hands of the Executive altogether. He was inclined to agree with

much that had fallen from the hon. member for Greenough, that that House should have a voice in these appointments, being trustees of an institution which had been established by a vote of the House, and which no doubt in the future would be largely dependent upon the votes of that House. He had no wish, however, to have the whole question reopened, though he believed that would have been the better plan. The same course was adopted as regards the appointment of governors of the High School, another institution supported by a vote of that House, and also the members of the Board of Immigration, and other public institutions. As regards the proposed amendments in the bill, he saw very little objection to the words "Governor in Council" being retained, both as regards the appointment and the removal of these trustees. The Governor had no seat in that House, whereas some of the members of the Executive had, and they were able to furnish the House with information, and to defend any appointment that might be made, with their advice. He thought there were very good reasons for the retention of these words. This was not an office of emolument, but a position of trust, and these gentlemen would represent the people of the colony, in the management of this institution. If hon. members were of his opinion, they would insist upon the retention of these words.

MR. RICHARDSON thought there could be no reasonable objection to the Executive Council having a voice in these appointments. It could not cause any injury to anybody, and, looking at it from a common sense view, he failed to see what ground there was for requesting them to amend the bill as proposed. The House had deliberately decided that the Executive should be consulted in the appointment of these trustees, and it would be stultifying itself altogether if it now went back from its own deliberate decision.

The question was then put, that the proposed amendment be adopted, and, a division taking place, the numbers were—

Ayes ...	...	...	7
Noes ...	...	...	12
			—
Majority against ...			5

AYES.
Mr. E. R. Brockman
Mr. Coughdon
Hon. J. Forrest
Mr. Morrison
Mr. Parker
Hon. C. N. Warton
Hon. Sir M. Fraser
(Teller.)

NOES.
Mr. A. Forrest
Mr. Harper
Mr. Layman
Mr. Marmion
Mr. Pearce
Mr. Randell
Mr. Richardson
Mr. Scott
Mr. Shenton
Mr. Sholl
Mr. Venn
Mr. Henaman (Teller.)

Resolution to be reported.

THE SPEAKER took the Chair.

THE CHAIRMAN OF COMMITTEES reported that the committee had considered His Excellency's Message No. 17, and had not agreed to the amendments proposed.

MR. MARMION moved that an humble address be presented to His Excellency the Governor, informing him that, with reference to His Excellency's Message No. 17, the Council does not agree to the amendments suggested by His Excellency the Governor.

Question—put and passed.

RE-APPROPRIATION OF BALANCES OF 1884 LOAN.

The House went into committee for the further consideration of these re-appropriations.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) moved that the following item be sanctioned: "(b.) From item 'Geraldton Jetty Extension and Goods Shed,' the balance of £1,385 9s. 7d. to be expended on public works, Geraldton." The Government had not decided what particular works should be undertaken out of this fund, but as it was found that the amount would be of no service in connection with the original dedication, it was proposed to release it, and to devote it to some other purpose in the same district. All that the House was asked to do now was to affirm the desirability of bringing in a bill to re-appropriate these balances. Hon. members would have a further opportunity of considering in what way the money should be expended. He hoped the Director of Public Works would then be in the House, to furnish hon. members with such information as they might desire. With regard to the first item—the harbor works re-appropriation and the extension of the jetty—the Government, having reconsidered the question, were now prepared to accept the amendment of the hon. member for

Toodyay, and devote the whole of the balance to the extension of the jetty.

Item (b.) was then put and passed.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) moved that the following items be added:

4.—*Works and Buildings.*

c. Item "Government House and Domain, Additions," £2,500 to be expended on Public Offices, Perth.

d. From item "Mandurah Breakwater," the balance of £981 11s. 7d. to be expended on Public Buildings, Pinjarrah.

It was proposed to add the sum of £2,500, originally dedicated to additions to Government House and Domain, towards the completion of the new public offices. With regard to the Mandurah breakwater, as the money would be of no service in connection with that work it was proposed to spend it in repairing the court house and police quarters at Pinjarrah, the present buildings being in a very dilapidated state. The estimated cost of repairing them was very little less than the available balance.

CAPTAIN FAWCETT said he would have preferred seeing this money spent at Mandurah, as originally proposed, but as the Government seemed to have made up their minds not to do so, the best thing they could do was to spend it upon something else in the district. As to the most desirable works, he was not in a position to say, and he should have liked to have had an opportunity of consulting his constituents on the subject.

MR. PEARSE said he was sorry that the money was not to be spent on the breakwater at Mandurah, as this was the only means which the people of the district now had of sending their produce to market.

MR. RICHARDSON said if they got a railway, as he hoped they would, there would not be much necessity for this breakwater; and it was doubtful, if the money were spent upon a breakwater, whether it would answer the purpose. Therefore he thought it would be a good thing to expend the money in improving the present public buildings at Pinjarrah, which were in a very dilapidated state.

The items were then put and passed.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) moved that the following item be added:

5.—*Miscellaneous.*

e. From item "Steam Launch, Fremantle," balance of £1,422 14s. 4d., and item "Steam Launch, Marine Survey, £500," together a total of £1,922 14s. 4d., to be expended on Improvements, Fremantle Lunatic Asylum.

The question of improving the accommodation at the Asylum had been brought to the notice of the Government for years past, by the Surgeon Superintendent; and as they had now a large body of prisoners at Fremantle, whose labor would be available, a great deal of the work could be done by prison labor; and it was considered by the Director of Public Works that this amount would be sufficient to carry out the main recommendations of the Surgeon Superintendent, as regards the re-arrangement of the buildings, so as to admit of the various classes of patients being separated. The Government were most desirous of improving the present accommodation at this Asylum, which was more in the character of a prison than a free institution.

MR. SCOTT was glad to find that the Government were at last alive to the necessity of improving the accommodation at the Asylum, which had been a crying want for years past. Surely the only Asylum which the colony could boast of was not always to remain on a pauper footing, with so little room that the patients had to be heaped together, curable and incurable, in cheerless rooms, furnished in the poorest and meanest manner. He was pleased to think that Dr. Barnett's efforts to ameliorate the present wretched condition of the place were at last to be crowned with some success; and he could only hope that the amount set apart might prove sufficient for immediate necessities.

MR. SHENTON, while agreeing as to the necessity of improving the accommodation at the Asylum, thought it was hardly fair to appropriate for such a purpose funds which had been dedicated to the purpose of increasing shipping facilities in the harbor.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) pointed out that the House would have a further opportunity of discussing all these items when the Re-appropriation Bill was brought in, and also when the Loan Estimates were under consideration.

The item was then put and passed, and progress reported.

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

LEGISLATIVE COUNCIL,

Friday, 13th April, 1888.

Auditor General's Report on the Public Accounts: Diversion of Votes—Contract for Fremantle Post Office—Appropriation Bill: third reading: Agreements between the Government and the Director of Public Works, the Superintendent of Works, and the General Manager of Railways—Re-appropriation of Balances of 1884 Loan: adjourned debate—Adjournment.

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

PRAYERS.

AUDITOR GENERAL'S REPORT ON THE PUBLIC ACCOUNTS.

MR. SHOLL, in accordance with notice, moved: "That an humble address be presented to His Excellency the Governor, informing His Excellency that this Council, having fully considered the Auditor General's Report, is of opinion that it is highly irregular that sums voted by the Legislature for special purposes should be diverted to other objects or supplemented from other votes; and is also of opinion that the Government should endeavor to carry out the provisions of the Audit Act in the spirit as well as in the letter, more especially as regards amounts carried to Suspense Account, as pointed out by the Auditor General in his Report." The hon. member said his object in bringing this mat-

ter forward was in consequence of two paragraphs which he found in the Auditor General's report on the public accounts for the past year. He thought that when irregularities under the Audit Act were brought prominently to the notice of the House—whether the Auditor General was in the right or in the wrong—it was the duty of the House to consider his report, and to express an opinion upon it. The Auditor General, referring to what he called the manipulation of amounts voted by the Legislature, said: "It appears to be supposed that when there is not a sufficient sum to cover the payment to any officer appointed, for instance, on the fixed establishment, the money required may be disbursed from a sub-item of contingencies; but it must be borne in mind that the amounts voted by the Legislative Council are for a specific purpose, and, if an overdraft is likely to occur, it must be shown accordingly." He thought the Auditor General was quite right in bringing such an irregularity as was here referred to, before the attention of the House. Although the items where this were done, as shown in the report, might be small, still the principle involved was the same as if the items were large ones. True the Colonial Secretary, in commenting upon the report, said: "With regard to the paragraph bearing this heading, I may remark that the Auditor General, being called upon to specify the cases of 'manipulation,' has only been able to give two instances. In one of them a payment was wrongly classified, owing to the Auditor General having kept the papers in his office without bringing to Your Excellency's notice the objection, which he only now states, that he entertained to a minute of the Executive Council, advising that an excess on the Cossack Lightkeeper's salary should be charged to 'Incidentals, Harbor Department.' In the other instance, a payment to a medical officer for doing duty for five days at York, while the Government medical officer was detained in Perth as a witness at the Supreme Court, was wrongly classified, on the 29th December last; the Auditor General not receiving the papers till after the close of the financial year, it was impossible to rectify the mistake. These two instances appear to