Albany, and he believed the amount of the vote now asked for would barely cover those expenses.

The vote was agreed to *nem. con.*

THE COLONIAL SECRETARY (Lord Gifford) moved, That the following item be added: "Reprinting Statutes, Extra Labor, and Printing Type, £600." He had entered into some calculation as to what would be the probable expenditure in connection with this work, and from the estimate made he did not feel justified in asking less than £600 for the ensuing year. Extra labor would have to be employed in printing the statutes, which they found, upon inquiry, could be done cheaper here than if they were sent home to be printed, to say nothing of the delay which the latter course would involve. No doubt they would have to give some remuneration to those employed on the Commission, but the Government would endeavor to meet the views of the House, and do the work as cheaply as possible.

MR. SHENTON: Surely these statutes will have to be submitted to the House before they are printed off?

THE COLONIAL SECRETARY (Lord Gifford): They will have to be printed in the first place.

MR. BURT: All we want printed will be the revised edition, from which a large amount of matter will have been eliminated, and it strikes me it will be a very long time before the labors of the Commission will be concluded, and the statutes ready for printing, in a consolidated form. I notice that, in England, no discussion is allowed on measures brought up by the Revision Committee for repeal, the statutes which they hold to be obsolete being repealed as a matter of course. The reason for this is obvious, for, were it otherwise, it would lead to endless discussion, and the work of consolidation would have no end to it.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) hoped that neither the House nor the Government would place such a power in the hands of the Commission here as to authorise them to repeal any statutes which they might regard as obsolete, or superfluous, without the consent and approval of the Legislature.

MR. STONE believed the English Act referred to simply referred to the consolidation of statutes, and not their revision; but here it was proposed to empower the Commission to revise as well as consolidate. Personally, he might say, he was very much opposed to the appointment of a Commission to revise the statutes; the labors of such a Commission would extend over five or six years, and he certainly and fervently hoped they did not calculate upon his services on the Commission.

THE ATTORNEY GENERAL (Hon. A. C. Onslow): What I suggested the other night as to the best course to adopt with reference to these statutes, I do again, namely, that such statutes as are consolidated only should be passed through the House simply by reading the marginal notes, but in all cases where statutes have been revised, the revision should certainly be discussed in Committee of the whole House.

MR. STONE: It appears to me that all we want is to consolidate existing Acts, and to eliminate such as are obsolete.

MR. MARMION: Is it not the intention of the House to vote some honorarium to those gentlemen of the legal profession who may undertake the consolidation of these statutes, and, if such is the case, is the amount included in this £600?

THE ATTORNEY GENERAL (Hon. A. C. Onslow): It is.

The vote was then agreed to.

Question—That the total, as amended to £15,988 14s. 8d., be granted for *Miscellaneous Services*—put and passed.

Estimates reported.

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

LEGISLATIVE COUNCIL,

Tuesday, 6th September, 1881.

Timber Concessions to Mr. Leonard at Deep River—Sunday Telegrams—Concessions to Ballarat Timber Co.—Married Women's Property Act, Amendment Bill: first reading—Law and Parliamentary Library Act, Amendment Bill: third reading—Report of Select Committee on Message No. 7—Excess Bill, 1880: third reading—Reply to Message No. 23, *re* Barristers' Admission Bill—Fencing Bill, 1881: recommitted—Adjournment.

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

PRAYERS.

TIMBER CONCESSIONS TO MR. LEONARD AT DEEP RIVER.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, asked the Colonial Secretary, "Whether he was now prepared to communicate to the House the nature of the timber concessions granted to Mr. Leonard, in the vicinity of the Deep River?"

THE COLONIAL SECRETARY (Lord Gifford) handed in an extract showing the general condition of the license held by Mr. Leonard. (*Vide* "Votes and Proceedings," Printed Paper A25.)

SUNDAY TELEGRAMS.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, asked the Colonial Secretary, "What action has been taken by the Government in regard to an Humble Address to His Excellency the Governor, unanimously passed by this House on the 29th of March last, praying that he would be pleased to permit that messages of an ordinary character be sent during the hours that the Telegraph Offices throughout the Colony are open on Sundays"—to which no reply of any kind has been received.

THE COLONIAL SECRETARY (Lord Gifford) replied as follows:—"Messages of a pressing character, such as relating to the arrival or departure of friends, cases of sickness, or business of official importance, are now allowed to be sent at double rates. Messages of an ordinary character are excluded, and the Governor, after having made full inquiries in the case, came to the conclusion that it would not be advisable to alter the present regulations. In South Australia the offices are closed altogether, and telegrams can only be sent by pre-arrangement, at 4s. for every 10 words. In Victoria and New South Wales the rate for Sunday Messages is 5s. for every 10 words. In Queensland the offices are not opened at all. It will thus be seen that the facilities afforded here for Sunday Messages are already in excess of those in the neighboring Colonies."

CONCESSIONS TO BALLARAT TIMBER COMPANY.

SIR T. COCKBURN-CAMPBELL, in accordance with notice, moved, "That an Humble Address be presented to His Excellency The Governor, praying that he will be pleased to furnish for the information of the House copies of the correspondence which has taken place between the Government, Mr. George Simpson, and the Directors of the Western Australian Timber Company, relative to the transfer of the concessions held by the Ballarat Company to an English syndicate." The hon. baronet said he had, at a previous Session, moved an Humble Address in almost the same terms as this, and the House was then informed by the Governor that he did not consider it expedient then to furnish the correspondence asked for, but that, probably, on a future occasion, there would be no objection to its being presented to the House. He thought it would be very desirable that it should be presented, because an idea had gone forth, and was generally entertained, that the Government had not treated this company fairly. Of course, he was not prepared to say whether they had or not, but he considered it extremely desirable that the House should be placed in possession of the correspondence, and that the matter should be cleared up.

The motion was agreed to.

MARRIED WOMEN'S PROPERTY ACT, AMENDMENT BILL.

MR. S. H. PARKER, in accordance with notice, moved for leave to introduce a Bill to amend the Law relating to the Property of Married Women.

Leave given, and Bill read a first time.

LAW AND PARLIAMENTARY LIBRARY ACT, AMENDMENT BILL, 1881.

Read a third time, and passed.

REPORT OF SELECT COMMITTEE APPOINTED TO CONSIDER MESSAGE No. 7, RELATING TO CONCESSIONS TO TIMBER COMPANIES.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) moved the adoption of the Report of the Select Committee appointed to consider the questions embodied in the Message received from His Excellency the Governor, on August 8th, relating to correspondence with Mr. James Morrison, of Guild-

ford, with reference to the granting of special timber leases to companies prepared to establish in this Colony on a large scale a timber export business. With regard to the correspondence with Mr. Morrison, who was acting as the representative of an English syndicate, it appeared that certain concessions offered by the Government to Mr. Morrison on behalf of this syndicate in February last, had been offered by that gentleman to his principals, but they had declined to act upon the offer. It was therefore understood by the Select Committee that the negotiations that were commenced with Mr. Morrison, in concert with Messrs. Elder & Co. of London, were now virtually at an end, and, therefore, any further propositions from them or others would be regarded as new, and disconnected altogether with the past transaction. Consequently the recommendations of the Select Committee were made in reference to companies generally, who might be prepared to invest a large amount of money in establishing an extensive timber export business in the Colony. The Committee's attention was first directed to the length of tenure which it would be desirable to grant to such companies, a fourteen years lease being regarded as altogether too short to induce people to invest large sums of money in the erection of mills, construction of railways, jetties, and other adjuncts required for the development of an extensive trade. After very carefully considering the whole matter, the conclusion was arrived at, that, with regard to length of tenure, a period of forty-two years was not too long, such period to be divided into three parts. It was proposed that during the first fourteen years of the lease the rent should be such sum as might be fixed and agreed upon between the Government and the applicants—in the case of the company represented by Mr. Morrison the proposed rental had been £800 a year for two square blocks of land of 250,000 acres each; during the second term of fourteen years it was recommended that the rent should be doubled, and that as regards the third and last period the rent be again increased by such sum as would be equal to that paid during the first period—which, of course, would be fifty per cent. higher than that paid during the second period. Thus, if a company paid £500 rent for the first seven years, they would be called upon during the following seven years to pay £1,000, and during the third term a rental of £1,500 a year. The Committee also recommended that no additional sawyers' fees for cutting and removing timber should be charged whilst the company was paying rent. Under the present regulations companies engaged in the timber trade were not allowed to fell timber between the months of January and May in each year; but the Select Committee, after carefully considering the question, came to the conclusion that it is unnecessary now to place restrictions on the cutting of timber during any portion of the year, for the obvious reason that any company would, in studying their own interests, adopt the best seasons for falling. The Committee, however, considered it desirable that no timber should be at any time cut of less diameter than one foot—that those of smaller dimensions should be left growing. The Committee also recommended that the Government should retain the right of sale of all Crown Lands within any timber lease during its currency, but to give the company a right of challenge in respect of any application made for the purchase or leasing of any lands within its lease,—in other words, it was proposed that the company should be allowed the pre-emptive right of purchase. With regard to labor introduced by any proposed company for conducting their operations, the Select Committee approved of the principle embodied in the offer made by the Government to the syndicate represented by Mr. Morrison, namely, that, as regards immigrants introduced by the company from Europe, a bonus of £10 be paid in respect of each male adult, and that £5 be paid them in respect of each Chinese or Asiatic male adult over the age of eighteen years, after satisfactory proof that the men so introduced had been three years in the Colony. These were the proposals which the Committee recommended for the approval of the House, and he believed that, if they were accepted, the result would be that a great stimulus would be given to the development of the export timber trade of the Colony, and indirectly to the Colony at large.

On the motion of the COMMISSIONER OF CROWN LANDS it was decided that the various paragraphs of the report be considered *seriatim*.

Paragraph 1.—"It appears that Mr. "Morrison has taken the offer contained "in the letter of the Commissioner of "Crown Lands, of the 14th February, to "Messrs. A. L. Elder and others, and "they declined to act upon it; it is there-"fore understood by your Committee "that the negotiations that were com-"menced with Mr. Morrison, in concert "with Messrs. A. L. Elder and others, "of London, are now at an end, and, "therefore, any further propositions "from them or others will be regarded "as new, and disconnected altogether "with the past transaction:"

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said it would be seen from this paragraph that, in the event of any further correspondence taking place between the Government and the syndicate represented by Mr. Morrison, the negotiations would have to be commenced *de novo*, and that the Government was at present bound by no propositions already made with regard to the terms upon which timber concessions should be granted.

The paragraph was agreed to without discussion.

Paragraph 2.—"After due consider-"ation from your Committee, and examin-"ation of Mr. Morrison, made in order to "ascertain what alterations of terms may "be desirable or necessary to induce "capitalists to embark in the export "timber trade, on a large scale, the "conclusion was arrived at, that, with "regard to length of tenure, forty-two "(42) years is not too long, and these "should be divided into three parts. "During the first fourteen years the "rent should be as may be fixed and "agreed upon; during the second four-"teen years that rent should be doubled; "in the third period the rent to be "again increased by such sum as is "equal to that paid during the first period, "which will be fifty per cent. higher "than that paid in the second period. "But it should be understood that no "additional sawyer's fees for cutting "and removing timber are to be charged "whilst paying rent:"

MR. MARMION thought it required great consideration at their hands before they bound themselves to the provisions of this clause. He would remind hon. members that if they granted the concessions asked by the company represented by Mr. Morrison, they would close up an area of timber country of something like 500,000 acres, for a period of forty-two years, which would leave but little more timber country for the Colony to deal with, and he thought, on that account, it behoved them to be somewhat cautious, and not to be too ready in binding themselves to these propositions. He would prefer to see the tenure of the lease shortened, for he thought forty-two years was altogether too long. He should think that twenty-eight years, divided into four terms of seven years each, would be ample, the rent payable in respect of each period being on a sliding scale,—£1 during the first term; £2 during the second; £3 during the third; and £4 during the last term. He did not think this would be anything unreasonable, taking into consideration that they would be virtually placing a monopoly of the timber country and of the timber trade of the Colony in the hands of a few individuals. He had always maintained that this Colony had not derived anything like the advantages and benefits which it ought to have derived from her timber forests. We had not yet received one penny of revenue in the shape of an export duty on the timber sent out of the Colony, and beyond the expenditure made by the companies on the spot we had derived little or no benefit from these concessions. He therefore thought the time had arrived—indeed, it had, in his opinion, arrived some time ago—when the Colony should look to derive revenue from its magnificent timber forests.

MR. SHENTON was totally opposed to such a lengthened tenure as forty-two years being granted, by way of concession, to any company. Forty-two years was a very long time to look forward, and no one could say what might be the altered circumstances of the Colony by that time. The value of our land and our timber forests might by that time be increased a hundred-fold; but if we granted these concessions the great bulk of our timber country would be in the hands of a few individuals, to do with it as they

thought proper. He quite concurred with what had fallen from the hon. member for Fremantle, that we had never derived what benefits we ought to have derived from our timber. All our other products yielded more or less revenue, but timber—none whatever. Another point which ought not to be lost sight of was the fact that it had been proved beyond doubt that forest denudation on an extensive scale interfered with the rainfall of a country,—a fact to which the attention of the Governments of the other colonies, and of other parts of the world, was being seriously directed. It had been clearly demonstrated in Syria and Palestine that the diminution in the rainfall in those countries was traceable to the disappearance of their timber forests. He therefore thought that, in the interests of the Colony, we ought to be very cautious in granting these extensive concessions, without some corresponding benefits accruing from them. He thought that a tenure of twenty-one years was quite long enough. It might be said that in opposing the terms asked for by this particular company, we were throwing obstacles in the way of opening up the resources of the Colony; but he did not think so. If this company was not prepared to accept our terms, he felt certain we should not be long before we had other companies who would be only too glad to do so.

MR. S. H. PARKER did not think there was any ground for apprehension that timber clearing in this Colony—where for every tree felled, thousands remained—would have any appreciable effect upon the rainfall. He thought they might safely leave the meteorological aspect of the question out of consideration and confine their attention to its commercial and financial aspects.

MR. STEERE concurred with the hon. member for Perth on that point, while, at the same time, he was entirely in accord with those hon. members who were opposed to the great length of tenure recommended by the Committee, which, in his opinion, was altogether too long. He also concurred in what had been said as to the very small benefits which the Colony had ever directly derived from its timber resources, though indirectly, no doubt, the Southern Districts had derived considerable advantages from the trade, as regards the employment of labor. As to the length of tenure which he thought ought to be granted, he considered that if they conceded double the length of tenure obtainable under our present Land Regulations, they would be going as far as they could fairly be expected to go. By the end of that term, our timber country would be of much more value than at present, for, already, the supply of indigenous timber in the other Australian Colonies was becoming very scarce, and at no distant date there was very little doubt they would have to come to us to supply their requirements in this respect.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said the report of the Select Committee was entirely in the hands of the House, to deal with it as hon. members might think proper. A great deal had been said about the Colony not deriving any benefit from the concessions made, in the past, to other timber companies, but he would remind hon. members that the benefits derived by the companies themselves had also been very slight, for none of them, hardly, had been able to do more than just manage to keep their heads above water. The Select Committee in dealing with this subject had Mr. Morrison's proposals before them, and Mr. Morrison himself told them that the great difficulty which he had experienced in negotiating with capitalists was the shortness of tenure, under the existing regulations, and, unless this tenure be very considerably extended, there was very little prospect of any large amount of foreign capital being invested in the development of our timber resources. Of course, if no good result arose out of the deliberations and recommendations of the Select Committee, the Committee would be relieved from all responsibility, in the event of the House disagreeing with their conclusions.

MR. VENN said, as to the statement made with regard to the timber supplies in the other colonies being pretty well exhausted, if hon. members would look at the South Australian papers recently to hand, they would see that our neighbors there were congratulating themselves upon the prospect of railway extension into the interior of their own Colony doing away with the necessity of their

having to come to Western Australia for their timber. With reference to export duties, if we wished to develop the trade that was a question we ought to deal very gently with. He recognised the necessity of getting as much revenue as possible out of the Colony's products and resources, but he would remind the House of what had been the result, from a financial point of view, as regarded those companies who had hitherto embarked in the business, even in the face of the very liberal concessions granted to them. If an additional burden, in the shape of an export duty, had been imposed upon these companies, instead of struggling along as they had done, with their heads just above water, they would have collapsed years ago. As it is, the absence of an export duty enabled them to compete with other countries, at lower rates; but if an export duty were imposed it would have the effect of shutting out our timber out of the market altogether,—an export duty, that was to say, that would have any appreciable effect upon the public revenue. Our timber, after all, was not much better than the red gum of Victoria; according to some experts, it was only the same timber, under a different name.

MR. MARMION said as it appeared that the majority of hon. members who had expressed any opinion on the subject was opposed to the granting of such a long tenure as forty-two years, he would move, as an amendment, That the words and figures "forty-two (42)," in the ninth line, be struck out, and the figures and words "twenty-eight (28)" be inserted in lieu thereof.

MR. BROWN said before the House was asked to pronounce its decision with reference to the amendment, he should like to say a word or two. The Select Committee had first of all to consider whether it would be desirable, in the interests of the Colony, to offer any further inducements in the way of concessions, with a view to the development of the timber trade. Some hon. members seemed to think there was no necessity for offering any further stimulus in that direction, but the Select Committee came to a different conclusion, and the question now was—what should be the extent and nature of the concessions which ought to be granted. As to the allegation that the Colony had reaped no benefit from the concessions already granted, he could not agree with that statement. An immense trade had sprung up since the first concession was made, and a large export business had been created, while very considerable sums of money, amounting, he believed, to thousands of pounds monthly, was being paid in wages alone, on the various timber stations of the Colony. Some people regarded our timber resources as unlimited, and we were told that, as to the quality and durability of our jarrah, it ranked foremost amongst all timbers, for certain purposes. He regretted to say that, personally, he did not think so,—he believed there were other timbers at any rate equal to it. That, however, was a mere matter of opinion. The Select Committee, at any rate, considered that, as regards the area of timber country, there was any extent of it, and the question arose as to what would be the best inducement to offer in order to turn it into account. The first matter for their consideration was the length of tenure which was likely to encourage capitalists to embark their money in such an enterprise, and they had endeavored to arrive at the shortest tenure which, in their opinion, would induce a company to invest £200,000 or £300,000 in the business, on terms that would enable them to compete with the companies already existing in the Colony. He felt satisfied that,—if the House struck out this period of forty-two years, as proposed in the amendment, and substituted a term of twenty-eight years as the maximum length of tenure to be granted to any company, the object they had in view would not be attained, and they might as well proceed no further in the matter. On the other hand, if these negotiations were brought to a satisfactory conclusion, and the company commenced operations, we should receive a very fair amount in the way of rent, to say nothing about the impetus which would be given to the development of an important industry, and the amount of money that such a company must necessarily expend in wages alone.

MR. S. H. PARKER said that, having been a member of the Select Committee whose report was under consideration,

he need hardly say that the paragraph under review would have his support. He did not think that the proposed tenure was at all too long, when it was borne in mind the large amount of capital which would have to be invested. He did not think any shorter tenure would justify such an investment, or render the operations of the company profitable. One would think from the remarks which fell from some hon. members that they were really jealous of seeing any of these companies succeed; if not, let us give them a chance of doing so. For his own part, he considered that reducing the area of country to be embraced in the lease would be preferable to curtailing the length of tenure upon which the lease shall be granted.

THE COLONIAL SECRETARY (Lord Gifford) thought it was worthy of serious consideration, whether it was desirable to throw a monopoly like this into the hands of a few individuals. Personally, he thought with the hon. member for Perth, that it would be far more desirable that we should agree to the tenure proposed by the Committee, but reduce the area of country to be comprised in the lease, rather than alienate, for a period of over forty years, such a huge extent of territory, in favor of a few foreign capitalists.

MR. MARMION pointed out that Mr. Morrison, in the first instance, only asked for a lease of fourteen years, but he (Mr. Marmion) proposed to double that. Was not that dealing liberally enough with these people? But the Select Committee, not content with that, wanted to treble it, which was altogether too much of a good thing.

MR. BROWN said, as to the quantity of land to be included in the lease, the Select Committee had not dealt with that question at all, but left it in the hands of the Government, or the House, to determine what area of country should be embraced in the concession made to any company.

MR. GRANT would himself be very sorry indeed to see more foreign timber companies come here. He thought the day was not far distant when the Colony would be able to make a great deal more out of its timber than it had done in the past, or was doing now. Considering the great demand there must arise for timber, for the construction of public works throughout these colonies, there could be no doubt that, before very long, the supply among our neighbors would become pretty scarce, and our timber would then be worth three or four times as much as at present. We ought to take a lesson from America, where there was at one time, and not so very many years ago, boundless forests, but where timber had now become a scarce commodity. He did not think himself we had as much timber in this Colony as some people seemed to imagine we had. The country might be covered with trees—their forests, to look at, might appear inexhaustible—but the question to be considered was this,—was all the timber available for export? For his own part, he should be sorry to see such a concession, as was here proposed to be made, granted to any company.

The amendment was then put—That the words proposed to be struck out stand part of the paragraph—upon which the Committee divided, with the following result:

Ayes	... ...	9
Noes	... ...	6
Majority for	...	3

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

The amendment was therefore negatived.

MR. STEERE, without comment, moved, That the following words be added to the paragraph:—"Provided "that the license fees now or hereafter "to be imposed for felling, hewing, or "removing timber in baulk or for piles "shall still continue to be charged; and "the quantity of timber land leased to "any one company shall not exceed "100,000 acres."

The amendment was agreed to *sub silentio*, and the paragraph, as amended, adopted.

Paragraph 3.—"It is thought un-"necessary now to place restrictions on "the cutting of timber during any por-"tion of the year, for this reason,—that

"it is considered that any company "would, in studying their own interests, "adopt the best seasons for falling; but "certainly it is desirable that no timber "should be, at any time, cut of less "diameter than one foot. Those of less "size should be left growing:"

MR. MARMION asked if this restriction as to the size of the timber would interfere with the privileges already granted to existing companies?

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser): No; unless it is proposed to make the condition retrospective. We cannot very well go outside our contracts with these companies.

MR. RANDELL asked if the proposed restriction would not operate very injuriously with regard to the local timber trade? There were many purposes for which small trees would prove useful and there were many parts of a forest where it positively would be an advantage to cut down such trees, in order to give more room for the bigger ones.

MR. STEERE, in order to meet this objection, moved to insert the words "and six inches at the butt," after the word "foot" in the tenth line.

The amendment was agreed to and the paragraph adopted.

Paragraph 4.—"The Government "should retain the right of sale of all "Crown Lands within any timber lease "during its currency, but applications to "purchase or lease for special occupation "might be referred to the timber lessees, "who might also be allowed the pre-"emptive right of purchase:"

MR. SHENTON moved, That all the words after the word "currency," in the fourth line, be struck out. He thought it was too much of a good thing to give any company a pre-emptive right, extending over forty-two years. No one could reasonably expect such a concession as that.

MR. BROWN hoped the amendment would not be agreed to without discussion. The object of the paragraph was to give security of tenure, and it had occurred to the Select Committee that if people were allowed to go and purchase blocks of land within the area leased by any company, no capitalists would consider they had any security offered them at all. Persons might go in just for the sake of purchasing the land over their head, and not for *bonâ fide* purposes of occupation.

MR. BURT pointed out that if the Government sold any portion of the land comprised within the company's lease, or let it for special occupation, they would, to that extent, take away from the value of the concession.

MR. RANDELL said there was another point which, perhaps, had not struck the Select Committee, and that was this: persons might purchase central and convenient blocks, right in the vicinity of the company's stations, for the purposes of carrying on an illicit trade, such as sly grog-selling. It would, at any rate, open the door to such abuses, and they knew from experience that there were people who would not be long in availing themselves of the opportunity of entering upon that line of business, which might be a very profitable one to those engaged in it, but which would be a great drawback to the company.

Question put—That the words proposed to be struck out stand part of the paragraph.

The Committee divided, when the numbers were—

Ayes	... ...	10
Noes	... ...	6
Majority for	...	4

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

The amendment was therefore negatived, and the paragraph agreed to, as printed.

Paragraph 5.—"Paragraph 7 in the "Commissioner of Crown Lands' letter of "14th February* is entirely agreed upon "in principle."

* "In the event of the proposed company "importing labor into the Colony, the Gov-"ernment will support your proposition, to be "submitted to the Legislature, to the number "of 100 adults, on the conditions suggested "by yourself, namely, that a bonus of £10 be "paid for each European male adult, and £5 "for each Asiatic male adult over the age of "18 years, brought here by them, after satis-"factory proof that the said adults have been "three years in the Colony."

MR. STEERE said, while agreeing with the principle of offering a bonus for imported labor, as stated by the Commissioner in his letter, still he did not believe in paying £10 for every European introduced from the other colonies. The Government, of course, would bear this in mind, and see that, should the labor be introduced from any of the Eastern colonies, instead of from England, the bonus should be proportionately reduced.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser): Certainly. When I wrote the letter referred to, the intention was that the labor should be introduced from England.

The paragraph was then agreed to.

Paragraph 6.—"Your Committee is of "opinion that the Government should be "empowered to make special arrange- "ments with each future timber company "in respect to the export duties to be "charged upon timber, on the under- "standing that such duties shall be fixed "at about the average rate which the "timber companies, now working, are or "may become liable to pay under exist- "ing arrangements:"

MR. STEERE moved, That this paragraph be struck out. He objected to it altogether. It would give the Government power to deal with export duties just as they liked, without reference to the Legislature. He believed the existing agreement made by the Government with companies now working, exempting them from paying an export duty, was not a valid agreement, as no Government could of its own mere motion bind the Legislature to exempt any company from the payment of duty, and no such arrangement at present in existence was binding upon that House.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said the Select Committee merely wished to place their views on the subject on record, and he had no objection to the clause being expunged.

The motion to strike out the paragraph was then put and passed.

Paragraph 7.—"The opinion of your "Committee is, that it is desirable all "railways in or from the forests should "be on the gauge now adopted by this "Government, *i.e.*, 3ft. 6in.:"

THE COLONIAL SECRETARY (Lord Gifford) moved, That the following words be added to the paragraph: "And "that in any lease which may be granted "the Government should reserve to itself "the right to impose such timber duties "as may from time to time be leviable "by statute."

Agreed to, and the paragraph as amended adopted.

The House then resumed, and the Chairman reported that the Committee had considered the report of the Select Committee and agreed to the same with amendments.

The report was adopted, and ordered to be presented to His Excellency the Governor by Mr. Speaker.

EXCESS BILL, 1880.

Read a third time and passed.

BARRISTERS ADMISSION BILL, 1881.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) moved, "That the House "do now resolve itself into a Committee "of the whole to consider the amend- "ments recommended by His Excellency "the Governor to be made in this Bill, as "conveyed to the Council by Message "No. 23" (*vide* p. 401, *ante*). Since the Bill was under discussion in Committee the other day, he had discovered that the English Act excluded from its operation the following instruments,—wills, agreements not under seal, letters or powers of attorney, and transfer of stock containing no trust or limitation; and as it was desirable that our local Act should be in accord with the Imperial Act, he thought it was nothing but proper that these instruments should be excluded from the operations of the present Bill. This would be done by the House adopting the proviso recommended for adoption in His Excellency's Message.

The House then went into Committee to deal with the Message.

IN COMMITTEE.

THE ATTORNEY GENERAL (Hon. A. C. Onslow) moved, That the following Address be presented in reply to His Excellency's Message: "This Council, "having taken into consideration Your "Excellency's Message No. 23, is willing "to accept the proviso which has been "suggested by Your Excellency to be

"added to the sixth clause of the Barris-
"ters Admission Bill."

Agreed to without discussion.

Resolution reported.

FENCING BILL, 1881.

On the Order of the Day for the re-consideration of this Bill in Committee,

MR. BROWN said the statements made in that House by the hon. member for Swan were, as a rule, entitled to every consideration, and he had generally found that assertions made by that hon. member in the course of debate were exceedingly correct and well-founded. Statements were however made the other evening in connection with this Bill—statements which probably would influence some hon. members in giving their adhesion to the Bill—statements were made, unwittingly made of course, the other day, by the hon. member, which were not in accordance with facts. The hon. member, when he (Mr. Brown) characterised the principle underlying the 4th clause as a dangerous and mischievous principle, and one which in its operation would work grave injustice, said he could not understand what he (Mr. Brown) was driving at—that such a principle had been in operation in the other colonies for years past, and that in Victoria and Queensland it had been made retrospective. This statement, he might say, had been thrown in his teeth, time after time, since it had been made in the House, but what were the real facts of the case? That no such principle had ever been in operation in the other colonies. He said that most unhesitatingly. The Victorian Act was in no sense retrospective, so far as he had been able to ascertain within the short space of time he had been able to devote to the investigation of the subject, which was only within the past few days. The hon. member for the Swan, who had prepared this Bill, had, on the contrary, had many months to inquire into the scope and provisions of the enactments in question, and he was surprised that the hon. member should have made such a misstatement. The Victorian Act of 1865 had a clause—the only clause retained out of the repealed Act—which provided that the principle of dividing the cost of a boundary fence should apply to persons who, *after the passing of the Act*, should erect such fence. There was nothing retrospective about that. Yet the hon. member said the same principle as governed the 4th clause of the present Bill was in operation in Victoria. And what did Queensland do? Was the same retrospective principle adopted there, as was stated the other evening by the hon. member for Swan? Nothing of the sort. The Queensland Act of 1828—or, rather, the New South Wales Act, as Queensland was then an integral portion of the mother colony—was exactly on the same lines as the Ordinance passed in this Colony forty years ago, applying to fencing upon town and suburban lands. That was the law under which all lands in New South Wales—which, for the purposes of his argument, he might regard as identical with Queensland at that time—were bought. Queensland remained under the operation of that Act until the year 1861, twenty years ago, when the very Act referred to the other day by the hon. member for Swan—referred to triumphantly as a precedent in favor of the retrospective operation of the 4th clause—was passed by the Legislature of Queensland, at that time a separate colony. But he would ask hon. members why, and to what extent, was the principle introduced into the Queensland Act made retrospective? Simply because that Act repealed, so far as Queensland was concerned, the Act of the mother colony, which had been in operation for thirty-three years, and it was made retrospective merely to this extent—to preserve the provisions of the original enactment in force. If the hon. member had come forward with a proposition that, in future, all country lands alienated from the Crown in this Colony shall be alienated under the conditions of this 4th clause, as regards fencing, he would then have been asking that House to do what had been done in the other colonies. But what the hon. member did ask them to do had never been done, as was stated by the hon. member for the Swan, in any of the neighboring colonies; and he much regretted that the hon. member should have led the House into the mistake of believing that it had. He had been somewhat twitted the other day because he was not prepared to acknowledge that fencing enhanced the value of land. No doubt

it enhanced the value of land when the fencing was utilised for the ordinary purposes of a fence—that was a truism; but what he maintained was that it was of no value, or comparatively little value, to a person who made no use of it. It had been stated that the object of this Bill was to compel or to encourage people to fence their land; a great deal might have been said in its favor had that been the case. But what he contended was, that the real object of the Bill was to enable a man who had occasion to fence his lands to compel his unfortunate neighbor to put his hand in his pocket and pay one-half the cost of such a fence, whether it would be of any use to him at all, or not. That was what he had characterised as an act of injustice. That was what he called legalising robbery. Of course he did not use the term in an offensive sense, with reference to those hon. members who did not regard the matter in the same light as himself; but to him it appeared to be nothing more nor less, this compelling of people to contribute one-half the cost of a neighbor's fence when that fence, for all the good it would be to the adjoining owner, might as well be in another district altogether. This was the obnoxious principle which he could not help characterising as the perpetration of a gross injustice, the establishing of a dangerous and mischievous precedent in the annals of colonial legislation. If the principle had been a just one, he did not think there would have been any objection to have made it retrospective in its operation, as well as prospective, and to extend its application to lease-hold pastoral lands as well as to alienated lands. And he had no doubt that, if they affirmed the principle now as regards the latter class of lands, it would be putting in the thin end of the wedge for applying it to all the squatting lands of the Colony. He was sorry that the hon. member for the Swan had not seen his way clear to offer a greater compromise to the opponents of this 4th clause than he was prepared to do, and he could only express a hope that this grave question would yet be submitted to the country before such an enactment was allowed to appear on our statute books.

MR. MARMION said some stress had been laid by the hon. member for the Swan upon the fact that, so far as town and suburban lands were concerned, an Act similar in principle to the present Bill had already been passed in this Colony nearly fifty years ago—as far back as the year 1834. But he would ask hon. members to bear in mind the different circumstances of the Colony in those days and now. When that Act was passed, the Colony had only been five years in existence, and probably there were not more than half a dozen fences erected in the whole place; also, that there had been no previous legislation on the subject, this being the first Act introduced in the Colony dealing with the question of fencing. Under these circumstances, it would be necessary to make the provisions of such an enactment operate retrospectively; nor could its retrospective action be regarded as any great hardship. And this was just what had been done in Queensland. But it was a very different thing to bring the same principle into operation in these days, when there were hundreds and thousands of fences in existence, to all of which the retrospective principle of the clause would apply. As to a dividing fence enhancing the value of land—granting for the sake of argument that it did, and that fencing along the boundaries of an adjoining owner's land, even although the owner of such land did not utilise the fence by joining on to it, might, in certain cases, enhance the value of the adjacent land; still, might not such land have changed hands once, twice, or even three times since such boundary fence had been erected? And had not the purchaser in each case taken into consideration the enhanced value of the land by reason of such fence having been erected upon it? And why should the last buyer, who had included this enhanced value in the purchase money, with a full knowledge at the time that he could not be called upon to pay any portion of the cost in value of such previously erected fence until such fence should be utilised by him in enclosing his own land—why, he asked, should the last purchaser be mulcted to the extent of one-half of the value of the fence, under existing circumstances, he having already contributed the value (so far as it affected his own land) in the purchase money? Again, it should be borne in

mind that land which had been fenced prior to the passing of this Bill might not be in the hands of the original holder, who erected the fence. He might have sold the land since the erection of the fence, and of course the consideration money represented the value of the land with the fence upon it. And such land might have changed hands over and over again, and in each case the vendor would have received from the purchaser the value of the fence. Not one of these purchasers had ever expected to be reimbursed any proportion of the cost of the fence for which he had so paid, until—as the law in force at the time of the purchase provided—the fence was made use of by his neighbor for the purpose of enclosing his own land. It appeared to him that they were now legislating with a view to place money in the pockets of the present holder of the land, the last purchaser, who never expected, as the law now stands, to receive such money; in fact, they were legislating in favor of those who had never looked forward to, had never calculated, upon such advantages being placed within their reach, and to whom the present Bill would prove an altogether unexpected boon, and as undeserving (on any equitable grounds) as it was unexpected.

The House then went into Committee for the re-consideration of the Bill, when

MR. STEERE moved, That the following interpretation clause be added to clause 2:—"'Fence' shall mean any substantial fence reasonably deemed sufficient to resist the trespass of great and small stock, including sheep, but not including pigs and goats, and shall not be deemed to include any fence which shall be wholly or partially constructed of bushes or brushwood."

Question—put and passed.

Clause 2, as amended, agreed to.

MR. STEERE, in accordance with notice, moved to substitute the following clause, instead of clause 4, passed the other day: "It shall be lawful for the owner of any land who shall before the passing of this Act have erected a fence dividing such land from land adjoining thereto, to demand and recover of and from the owner or occupier of such adjoining land half the value of such dividing fence; and in the event of the occupier paying the same he may demand and recover such half value from the owner. Provided always, that the word owner in this section shall be held to include the holder of a special occupation lease or license. Provided further, that in the case of country land, the amount recoverable from the owners or occupiers of such adjoining land as aforesaid shall, unless otherwise agreed upon, be payable by instalments as follows, *i.e.*:—If such amount shall not exceed Twenty-five pounds, within one year after adjudication. If such amount shall exceed Twenty-five pounds and shall not exceed Fifty pounds, within two years after adjudication. If such amount shall exceed Fifty pounds, and shall not exceed One hundred pounds, within three years after adjudication. If such amount shall exceed One hundred pounds and shall not exceed One hundred and fifty pounds, within four years after adjudication. If such amount shall exceed One hundred and fifty pounds, within five years after adjudication." The hon. member said a great deal had been stated in the course of the discussion on this clause, to the effect that it was retrospective in its effect, whereas, in reality, such was not the case. If it had been proposed that the value of the fence towards the cost of which the owner of the adjoining land had to contribute one half should be the value of the fence when first erected, there might be some show of reason for stating that the clause would operate retrospectively. But such was not the case. All that was asked was that he should contribute one half of the present value of the fence. With regard to the Queensland Act, he still maintained that it was retrospective to the extent of this Bill being retrospective—retrospective only in the light he had just mentioned.

The motion to substitute the new clause for the original one was agreed to.

MR. MARMION said he could not support the clause in its amended form any more than he could originally. He disagreed altogether with the principle laid down as regards the payment of these amounts, which would press more harshly on the small holders than upon the large landowner. The former would have to pay his £25—a very large sum of money to a poor man—within a year, while the wealthy man would have five

years to pay his £150. They had heard a great deal about the poverty of the cockatoo farmers, but certainly this appeared a strange way of improving their condition, by making a poor man pay £25 for a fence that was of no earthly use or benefit to him. In order to indicate what his own desire was with regard to this clause, he would move the following amendment upon it: "It shall "be lawful for the owner of any land, in "towns, who shall before the passing of "this Act have erected a fence dividing "such land from land adjoining thereto, "and for the owner of any land in the "country, if the owner or occupier of the "adjoining land shall, in enclosing the "same, have availed himself of the divid-"ing fence, to demand and recover of "and from the owner or occupier of "such adjoining land half the value of "such adjoining fence; and in the event "of the occupier paying the same, he "may demand and recover such half "value from the owner. Provided always, "that the word 'owner' in this section "shall be held to include the holder of "a special occupation lease or license."

THE ATTORNEY GENERAL (Hon. A. C. Onslow) said the debate which had taken place on this question seemed to him to illustrate the truth of the old adage, as to giving a dog a bad name. The name of being "retrospective" had been thrown somewhat recklessly at this Bill since its first appearance on the scene, and the name had stuck to it, and stank in the nostrils of the Committee. Retrospective enactments might be good, or they might be bad, but he did not think that question arose here, and he regretted very much that in the debate the other night, and again this evening, this big word "retrospective" had been so recklessly used. The hon. member for the Swan had just pointed out that in reality the clause was not retrospective. It would be retrospective if it provided that the value of a fence in respect of which a neighbor, after the passing of this Bill, might be called upon to pay one half should be the value of the cost price of the fence, when it was a new one. But it was an entirely different thing when it was only proposed to call upon a man to pay one half of the present value of a fence, which probably in many instances had deteriorated considerably since the date of its erection. Was there any injustice in that—admitting the principle which he could not, for the life of him, lose sight of, that the erection of a fence was a benefit. Conceding that principle, why should the man who conferred this benefit upon a neighbor be denied compensation, whether he erected the fence ten years ago or whether he erected it to-morrow, so long as the compensation to be paid is in accordance with the present value of the fence? If they were going to restrict the operation of the clause to those persons who may hereafter erect fences, and to deprive those industrious colonists who had gone to the expense of putting up fences in the past from participating in the compensating advantages of this clause—although such fence might prove of equal benefit to the adjoining owner as a brand new fence—it appeared to him they would be legislating for one section of the community to the exclusion of another section equally deserving of consideration, if not more so. That was what some people would call class legislation. It seemed to him that of the two classes, that which was entitled to the greater amount of consideration was the man who had erected his fence years ago, and thus conferred a benefit in which his neighbor had participated all this time, free of expense.

MR. VENN considered that the concessions made in the amended clause were such as should have commended themselves to all hon. members—except, perhaps, the hon. member for Geraldton, whose opposition to the Bill was too deep-rooted for removal by any concessions short of a radical change in the principle of the Bill. He could understand such opposition as was offered by that hon. member, for it was consistent and thorough; but the objections raised by some hon. members appeared to him very far-fetched indeed. The grievance conjured up by the hon. member for Fremantle about the poor 40-acre block man, who could not afford £25 to have his holding fenced, was an imaginary grievance, and the sooner such a man got rid of his land the better for himself and other people. One thing seemed to have escaped the attention of hon. members, and that was, that this Bill did not deal with any tumble-down sort of fence, or

a bush fence, but with such a substantial fence as may reasonably be deemed sufficient to resist the trespass of great and small stock. There were hundreds of miles of fencing in the Colony in respect of which no one would be able to claim anything, under this Bill, from the owner of the adjoining land.

MR. BROWN said that, in order to be consistent, those hon. members who supported the Bill on the ground that it was right and proper to compel a man to fence his land, because fencing enhanced its value, ought to carry their principles a little further. If they were going to impose these conditions upon him in the general interests, regardless of his own benefit, they should insist, as regards agricultural land, that every acre of it should be cleared and put under cultivation, and that, as regards those sandy plains which at present yielded no vegetation, he should cause them to be planted with artificial grasses, and make a proper use of his land. Why should they stop at making him fence it?

MR. BURT said there were plenty of non-fencers in this Colony who could afford to enclose their land, but who were only waiting for an opportunity to sneak benefits from their more industrious neighbors, and it was against such men as these that the present Bill was mainly directed. As to the small holder, could they conceive the owner of a 40-acre block who could not either beg, borrow, or steal £25 to make some use of his land? He would have a year to pay the money back, and five years more before his land could be distrained and sold.

MR. MARMION said that, after what had fallen from the hon. member for the Murray, he would appeal to the House on higher grounds than any which had yet been put forward in favor of the Bill—he would appeal to hon. members on the ground of public morality, not to place such a temptation in the way of the small holder as to induce him, if he could not beg or borrow the money to pay for his fencing, to steal it.

MR. GRANT said the remark which had fallen from the hon. member for the Murray had stirred up in his mind a reminiscence of what took place in connection with the same subject, many years ago, when fencing was first commenced at Geelong, in the colony of Victoria, by a gentleman named Wills. A landowner with whom he (Mr. Grant) was employed at the time, wrote to Mr. Wills to ascertain what was the result of the experiment, whether the system of paddocking then adopted for the first time in the district caused the land to carry more sheep,—whether, in fact, he thought fencing paid? Mr. Wills sent a very pithy letter in reply, suggestive of the Scotsman's advice to his son, to make money, honestly if he could, but—to make money. Mr. Wills was loud in his praises of the beneficial results of his experiment, and his advice to the person who wrote to him on the subject was, to go in for fencing by all means,—even if, to do so, he had to beg, borrow, or steal the money. And he did. [MR. BURT: Which?] He did not know which; at all events the man fenced his land, and the system was soon in general adoption throughout the colony, and contributed as much as anything not only to the wealth and prosperity of the sheep-farmers but of the colony at large.

MR. BROWN said that, in the event of the question not being finally disposed of this Session, he might next year be disposed to consent to some arrangement with reference to dividing fences. He was free to admit that there might be cases in which a dividing fence, even although a man's land was not enclosed, might be of some value to him, though, as a rule, he failed to see what benefit such a fence could be unless joined to another, and utilised for the ordinary purposes of a fence. What he would suggest was, that, instead of calling upon a man to pay half the value of such a fence whether he used it or not—where it could be shown that it was of any benefit to him, he should be called upon to pay, not the principal but merely the interest on the money value of the fence, until such time as he availed himself of it for the purpose of enclosing his own land, when—as provided by the law as it now stands—he should be called upon to contribute one half the cost of the dividing fence. That would have been a magnanimous compromise for the hon. member for the Swan to have offered, and certainly a much fairer one than that now before the Committee.

The amendment submitted by Mr. Marmion was then put, and a division being called for, there appeared,—

Ayes	...	...	7
Noes	...	...	8
Majority against	...		1

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

MR. STEERE moved some verbal amendments in clauses 14 and 20, which were agreed to without discussion, as was also a proposal to add the following words to the latter clause,—"Such value "to be based upon the fair and usual "price charged for the erection of a "three-rail fence in the case of country "and surburban lands, and of a four-"rail or paling fence in town allotments."

Clause 23 (reverted to)—"All sums of "money adjudged by any Court of Petty "Sessions to be paid by any party pur-"suant to this Act for erecting or "repairing any fence dividing any land, "if not paid within one calendar month "from such adjudication, may be recovered "under a warrant (as in the schedule to "this Act annexed), signed by the said "Magistrates, directed to any constable or "Sheriff's Bailiff to levy the same by dis-"tress and sale of the goods and chattels "of the said party so ordered to pay said "sum of money, together with all costs "and charges attending the same. Pro-"vided always, that, in any case the party "so adjudged to pay shall not have "sufficient goods and chattels out of which "such sum so ordered to be paid may be "levied, such constable or Sheriff's officer "shall certify the same under his hand on "the back of such warrant; and the party "in whose favor such order shall have "been made shall be entitled to register "the same in the office for registering "deeds in Western Australia on payment "of a sum of two shilling and sixpence; "and the amount of such order, and all "costs and expenses attending the same, "together with the sum of six per cent. "per annum till paid, shall be thence-"forth a charge on the said land of the "party making default:"

MR. STEERE moved, "That all the "words between 'All,' in the first line, "and 'be,' in the fourth line, be struck "out, and the following be inserted in "lieu thereof:—'All moneys adjudged "'by any Court of Petty Sessions to be "'paid by any party, pursuant to this "'Act, may, as to moneys recoverable "'under the provisions of section four, "'or any instalment of the same, if not "'paid within the several periods defined "'in such section, and as to moneys "'otherwise recoverable under this Act "'if not paid within one calendar month "'after such adjudication—'"

Question put and passed *sub silentio*.

MR. STEERE moved, "That the words "'in case,' in line 34, be struck out, and "the following words be inserted in lieu "thereof:—'Whenever it shall appear "'to the said Magistrate that the issuing "'of any such warrant of distress as "'aforesaid would be ruinous to the "'party so ordered to pay the said sum "'of money together with all costs and "'charges attending the same, then in "'such case no such warrant shall be "'issued, or if—'"

Amendment put and passed without discussion.

Clause 23, as amended, agreed to.

Bill reported.

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

LEGISLATIVE COUNCIL,

Wednesday, 7th September, 1881.

Vote for sinking Wells Eastward of Newcastle—Murchison and Ashburton Surveys—Votefor Wells between Murchison and Gascoyne Rivers—Development of Eastern Districts: consideration of Select Committee's Report—Reply to Message No. 22, *re* Railway to King George's Sound—Message No. 25: correction in Oyster Fisheries Bill—Message No. 26, *re* Transfer of W. A. Timber Co's. Concessions—Message No. 27, *re* Exhibition at Perth—Reply to Message No. 24, Re-transfer of Loan Moneys temporarily used—Fencing Bill: third reading—Adjournment.

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

PRAYERS.