

MR. STEERE: But the hon. member must. I am not aware whether the same rule obtains here as in the House of Commons, relieving members over sixty years of age from serving on Select Committees, or whether the hon. member claims exemption under that rule.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake): I am not sure yet.

MR. STEERE: Then the hon. member will have to sit on the Committee.

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

LEGISLATIVE COUNCIL,

Wednesday, 28th July, 1880.

Eastern Railway: cost of continuing from Spencer's Brook to York—District Roads Act, 1871, Amendment Bill: second reading—Excess Bill: motion for second reading; referred to a select committee—Messages Nos. 1 and 2—Real Property Limitation Act, 1878, Repeal Bill: second reading; in committee—Adjournment.

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

PRAYERS.

EASTERN RAILWAY: COST OF CONTINUING FROM SPENCER'S BROOK TO YORK.

MR. SHENTON, in accordance with notice, asked the Honorable the Colonial Secretary: "Whether this House could be furnished with the probable cost of continuing the Railway from Spencer's Brook, on the Northam Line, to York, as shown in the dotted lines in the plan presented to the Council by the Commissioner of Railways?" He was aware that it would be impossible to give an estimate of the cost with that degree of exactitude which would be required were tenders to be invited for the construction of this branch line, but he thought the Commis-

sioner might possibly be able to give the House an approximate idea of what the deviation referred to would cost. He was anxious to obtain this information, as it was his intention, at a later period of the Session, to move a resolution on the subject of the extension of the Eastern Railway.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the Commissioner of Railways would be asked to give an estimate of the approximate cost, but, in the absence of a detailed survey, no accurate estimate could be given.

DISTRICT ROADS ACT, 1871, AMENDMENT BILL.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) moved the second reading of a Bill to amend the District Roads Act. The object of the Bill was to provide greater facilities than at present exist for the declaration of main and minor roads. Since the present Act was framed, nearly ten years ago, the circumstances of the Colony had very considerably changed, and it had been found necessary to alter its provisions, so as to enlarge the powers of the Governor to appoint main and minor roads from time to time upon the application of the local boards. At present, the only provisions there were for setting apart and declaring new roads throughout the Colony were embodied in the 25th clause of the existing Ordinance, which simply enacted that, for the purposes of the Act, the roads should be divided into classes, to be called main and minor roads, and that the local boards should, within three months after their first election, recommend for the approval of the Governor what lines of road in their respective districts should be so classed. That had been done years ago, and the present Bill proposed that the Governor, upon the application of any district board, may from time to time appoint what roads, or parts of roads that have been previously surveyed and marked out, shall be main or minor roads, and may also upon the like application revoke such appointment. The other section of the Bill dealt with the 43rd clause of the present Act, which it amended. The clause in question provided that no track which has been in

general use by the public shall be fenced across or otherwise blocked up without permission,—no period being specified as to the length of time such track had been previously in general use, whether for a week, or a month, or for half a century. It was now proposed to amend the Act in this respect, by specifying the number of years a track must have been in general use, in order to bring it within the meaning of the clause. It was also intended that no such track should be blocked up or fenced across unless the local board of the district in which the track is situate shall recommend such a course to the Governor. Although no difficulty arose, under the existing enactment, in dealing with tracks passing through Crown lands, considerable difficulty was occasionally experienced in dealing with roads that pass through private lands. The present Bill, it was hoped, would tend to remove this difficulty, and enable the roads boards and the Governor to deal with the question without any unnecessary delay. He would not ask the House to go into Committee on the Bill that evening, and would merely invite hon. members to affirm the principle of the measure, by agreeing to the motion for its second reading.

MR. MARMION said he did not intend to oppose the motion, but thought that the present District Roads Act required amending in other important respects besides what was proposed in the Bill now before the House. The intention of the framers of the present Act, and the intention of the House when it passed it, was, not only that the inhabitants of the country districts should be empowered to construct their own roads, under local authority and supervision, but also that the grants made out of the general revenue for that purpose should be supplemented by local rates. This was a principle that had not been recognised by any of the boards, and it appeared to him it was never likely to be unless it was rendered compulsory upon the inhabitants of the various districts to do so, by requiring them to tax themselves for the purpose of improving and making their roads. Regard being had to the present condition of the public finances, he thought this was a duty which should be no

longer shirked; and when the House went into Committee on the Bill this subject might possibly be dealt with.

The motion for the second reading was then agreed to, and the Bill was ordered to be considered in Committee on Monday.

CONFIRMATION OF EXPENDITURE BILL.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy), in accordance with notice, moved the second reading of a Bill to confirm the expenditure for the services of the year 1879, beyond the grant for that year. The hon. gentleman said he did so with more satisfaction than on the occasion of moving a similar Bill last Session, when he had to ask the House to confirm an over-expenditure of £41,000. On the present occasion, the House was only asked to give its confirmation to an excess of a trifle over £18,000; and hon. members, on glancing at the comparative statements of revenue and expenditure presented to the House the other day, might feel somewhat surprised that only this sum required confirmation, seeing that, according to that statement, the overdraft for the year amounted to £28,600. But the apparent discrepancy would disappear when he informed the House that it arose from the fact that certain amounts which appeared as overdrafts had been refunded during the year. The first item of excess provided for in the Bill was a small sum of £29 11s. 6d. in connection with the Colonial Secretary's department, caused, he might say, entirely by extra remuneration paid for clerical services. The next item was under the head of Customs—£478 10s. 3d., arising in consequence of large claims due for 1878 having been paid last year, and the hire of the revenue cutter *Gertrude*, employed in connection with the pearl fishery. Hon. members were aware that this service had been entirely reorganised and placed on a different footing, the revenue officer in charge being now solely responsible for any expenditure over and above the grant made by the Legislature; so that this was the last occasion, he trusted, on which this item would appear among the overdrafts. The next department in

connection with which there had been an excess was the Postal and Telegraph department, where the amount of the overdraft which the House was asked to confirm was £1,746 6s. 1d. Hon. members were aware that during last year the Government, in compliance with the expressed wish of the House, had introduced the postal card system and other innovations in connection with this department, involving a considerable amount of expenditure. But he regretted to say that the post card system, from which so much was expected, had not been very generally adopted throughout the Colony. When first introduced, it had the freshness of novelty—it was like a new toy placed in a child's hand—the public were delighted with it; but now that the novelty of the thing had worn off, the public had neglected it almost entirely, and the consequence was, the Government had an enormous stock of these cards on hand, sufficient he believed to last for some years, at the present rate of consumption. Another factor in the overdraft connected with the Postal department was the increased cost of conveyance of inland mails. The next item in the Bill was a sum of £51 2s. 6d. in connection with the Land Titles department, chiefly on account of two month's salary, for January and February, 1880, advanced to the late Registrar of Titles (Mr. Jauncey), since deceased. The Harbor Master's department was also overdrawn to the extent of £372 18s. 2d., simply owing to the fact that the vote for that service had not proved adequate to meet its requirements. Of this overdraft, however, a sum of £109 7s. 9d. was in respect of clothing obtained from England, which would be refunded. Knowing the head of this department (Mr. Forsyth) as he did, he thought he might fairly venture to say that there had been no unnecessary expenditure in connection with the service. There was a very trifling overdraft, £78 18s. 1d., under the head of the Police department; but when hon. members came to consider how the annual grant for this department had of late been reduced, and, on the other hand, the heavy demands made on the force—more especially he might say by outlying settlers asking to be visited by the police—and the various other duties

which devolved upon the force, he did not think the House would be inclined to take exception to this small item. The next department in connection with which an overdraft appeared was the Government Printer's, £64 14s. 3d.—a trifling excess attributable to the items of "salaries," and "extra workmen employed," consequent upon the increased demands made upon the department. The next item, Education Department, £1,145 11s. 10d., was a more serious amount; but this overdraft was simply in consequence of the fact that the payments due for "results" for three half-years had been paid within the year, instead of, as formerly, allowing the "results" due for the last six months of the year to be paid in the year following. Were it not for this arrangement, there would have been no overdraft in connection with this department. The excess under the head of "Poor Relief" was £334, which was considerably less than in former years. As a matter of fact, there was no actual overdraft under this head of service, inasmuch as £348 had been paid into the Treasury on account of maintenance of pensioners, paupers, and children of convicts—which would cause an underdraft to the amount of about £10. He might add that there was also on hand a large amount of clothing paid for in 1879, but not made use of until the year following. There was an overdraft of £127 3s. 5d. under the head of "Pensions," of which amount a sum of £100 was in pursuance of a resolution adopted by the House in favor of granting a gratuity to an old and valued public servant, Mr. Henry Spencer. The next item "Works and Buildings, £6,578," did certainly appear a somewhat formidable overdraft, but when hon. members came to analyse it, and see how the money had been expended, he did not think the House would be inclined to take any exception at the excess in connection with this department. The first item with respect to which an overdraft had arisen was their old familiar friend—the steam dredge, which had overdrawn to the extent of £254 2s. 10d. A sum of £400 was annually voted for the maintenance of this vessel, and generally that amount sufficed; but last year a greater amount of repairs than usual had been necessary, and hence the over-

draft. The next item under this head with respect to which there was an overdraft was that of "Jetty repairs," £429 4s. 3d.—repairs chiefly rendered necessary consequent upon the effects of wind and weather,—which of course could not be controlled by any Government. While on this subject he might say that considerable damage had recently been caused to the jetty at Fremantle by the action of the weather, entailing an expenditure of about £130. "Alterations to Police Barracks, &c.," £666 0s. 6d., was the next item under the head of Works and Buildings—an overdraft necessitated by the increased accommodation required for the families of the police, and by other minor charges, the particulars of which would be furnished if required. A sum of £206 8s. 10d. had been spent in converting the Commissariat Store at Perth into a Supreme Court-house, and he did not think anyone would begrudge this expenditure. The new Fremantle Light-house—a light which he ventured to say would be no discredit to any Colony—had occasioned an overdraft of £422 16s. 8d.; and the additions to the new Public Offices at Perth had cost £1,760 1s. 2d., which could not be altogether said to have been incurred without the sanction of the House. It might be said that to some extent the votes for this work had lapsed; but as the Legislature was not in Session to renew them, and the expenditure was necessary, the amounts had been spent, in anticipation of the House ratifying the expenditure. The next item under the head of Works and Buildings was an amount of £747 19s. 8d., being advances made to the Board of Education on account of school-houses, and which had been expended wholly at the request of the board, upon works of absolute necessity. The last item on this list was a sum of £1,445 6s. 4d., for the erection of a schoolhouse at Geraldton—a somewhat large amount certainly, but he believed the work had been completed by the contractor in a most satisfactory manner, and the revenue, he might add, would be recouped by the sale of the old school building. Returning to the Bill, the next department under the head of which there was an excess was the Lacepede Islands, with respect to which he would only say that

the Government still believed they had guano there,—though that was a point which the lessees of the islands would contest with them. Under the head of "Miscellaneous Services," there was an overdraft of £6,573 10s. 11d., but if hon. members would bear in mind the various items constituting this sum they would find that the expenditure had been entirely unavoidable, or been previously sanctioned by the House, directly or indirectly. The amount embraced the following items: Interest, Savings' Bank, overdrawn, £94 0s. 9d.; postage, Public Offices, £215 3s. 11d.; telegrams on foreign service, £218 1s. 11d.—with regard to which he would only say, it was gratifying to find that the Home Government took such a paternal interest in us; purchase of an allotment for police station at Minnipup, £350; interest on overdrafts, £1,828 12s. 2d.; forest commission, £82 6s. 2d.—the report of the commission was now in the hands of the printer; Sydney Exhibition, £73 19s.—although we had been unable to take part in this Exhibition, some interesting ethnological specimens were contributed, and the Government had been asked to present them to the Ethnological Society at Sydney; Eucla telegraph (arbitration case *re* Miles), £799 7s.—hon. members would see they had not yet done with the expenditure in connection with this undertaking; search for coal on the Irwin, £47 10s. 9d.; Lieut. Ord's pay as aide-de-camp, £93 19s. 2d.—which would be refunded by the War Office; heliographs, £93 19s. 8d.; Paris Exhibition, £124 7s. 7d.; printing Baron von Müller's report on the forest resources of the Colony, £192 0s. 10d.; North-West exploration, £1,588 16s. 6d.—expended in accordance with the expressed wish of the House, and an expenditure with regard to which he was sure everyone must be satisfied, as the results of the expedition had proved most important to the Colony; stationery for Public Offices, £374 16s.—the outcome of too much writing; and Mr. Howell's fees *re* Palmer, £19 2s. The last item in the Bill was that under the head of refunds, £1,211 14s. 8d. chiefly on account of land rents and drawbacks on goods imported. He had now gone through the Bill, and if hon. members desired any further information, it would be his pleasure as it

was his duty to afford it to them. Or if the House wished to adopt the same course as was followed last year, and refer the Bill to a Select Committee, no opposition would be offered by the Government, for whatever course was pursued he believed the opinion of the House would be that there had been no uncalled-for expenditure, and that the various items constituting the excess were such as could not have been avoided, without injuriously affecting the public service and the public interests. He now begged to move the second reading of the Bill.

MR. STEERE would not at this stage offer any lengthy remarks upon the Bill, as it was his intention of moving that it be referred to a Select Committee. He must say that he could not himself agree with the hon. gentleman that the statement which he had just made was as satisfactory as he would make the House think it was. A statement disclosing an expenditure of over £18,000, without any authority whatever, could not be regarded as a satisfactory statement to make in any legislative assembly. Moreover, a different system appeared to have been adopted with reference to the Bill this year, compared with the course pursued in past years, for, instead of showing the total amount of the overdrafts (which he noticed, from the comparative statement of revenue and expenditure, amounted in reality to £28,600), the amount of the underdrafts (which he observed from the same statement amounted to nearly £10,000) had been deducted from the excess, which was thus made to appear less than it really was.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the hon. member was laboring under a misapprehension, and no deviation had been made from the course usually followed with regard to these Bills.

MR. STEERE said he did not think he was laboring under any misapprehension at all, but he would defer any further remarks on the subject for the present, as he was now going to move, as an amendment upon the motion for the second reading, That the Bill be referred to a Select Committee.

MR. MARMION entered into an elaborate calculation in order to show

that the view taken of the matter by the Colonial Secretary was a correct one.

MR. BROWN, in seconding the amendment, said he was glad to notice the course proposed to be adopted with reference to the Bill finding favor. Not long ago it was considered an improper course to pursue, to refer these Bills to a Select Committee, but hon. members could now see that it was utterly impossible to deal thoroughly with items of such magnitude, involving so many references to official documents, except in Select Committee. He thought the House was much indebted to the hon. member for Fremantle for the elaborate statement he had submitted in explanation, and it was satisfactory to find that the hon. member's figures agreed so closely with the figures placed before the House by the Government. At the same time he thought it would be more acceptable to hon. members generally, if the Bill were referred to a Select Committee, and he could only express a hope that the result of the Committee's investigation would not be such as to justify their report being characterised as an "impotent" one—as the report of the Select Committee on a similar Bill last Session had been designated by an hon. member of that House, when addressing the electors the other day. If that hon. member would show the Committee how to avoid arriving at any more "impotent conclusions" he was sure the House would be duly grateful to the hon. member.

MR. RANDELL pointed out some apparent discrepancies between the figures embodied in the Bill and the comparative statement of revenue and expenditure furnished by the Auditor General.

The amendment was then put and passed.

MR. STEERE thereupon moved, by leave of the House, "That the Select Committee should consist of more than five, namely, the Honorable the Colonial Secretary, Mr. Marmion, Mr. Brown, Mr. Randell, Mr. Shenton, Mr. S. H. Parker, and the mover, with power to call for persons and papers."

MESSAGE (No. 1) TRANSFER OF THE
CONVICT ESTABLISHMENT.

MR. SPEAKER announced the receipt of the following Message from His Excellency the Governor:—

"The Governor has received the Resolution of Your Honorable Council (No. 2) asking for copies of all correspondence which has taken place during the years 1875-76-77-78-79 and 80 between the Imperial Government and the Government of this Colony, with reference to the transfer to the Colony of the control and management of the Imperial Convict Establishment at Fremantle.

"The negotiations for the transfer of the Convict Establishment to the Colony are for the present in abeyance. The Governor expects that they will shortly be revived, and any proposals made and arrangements then contemplated will in due course be submitted for the approval of the Legislative Council before they are carried out; but no useful purpose would now be served by furnishing the voluminous back correspondence.

"The Governor has also received Address No. 3, of the 27th instant. The Returns asked for therein will be furnished as soon as possible.

"Government House, 28th July, 1880."

MESSAGE (No. 2)—ASSENT TO BILLS.

MR. SPEAKER also announced the receipt of the following Message from His Excellency the Governor:—

"The Governor informs Your Honorable House that he has this day assented, in Her Majesty's name, to the under-mentioned Bills passed by the Legislative Council during the present Session of the Legislature:—

"1. 'An Act to provide for the relief and return to Western Australia of Shipwrecked Colonial Seamen.'

"2. 'An Act to make perpetual an Ordinance intituled An Ordinance for taking an account of the Population and of the amount of Live Stock and Crop, and other particulars of the Colony of Western Australia.'

"Government House, Perth, 28th July, 1880."

REAL PROPERTY LIMITATION ACT,
1878, REPEAL BILL.

MR. BURT, in accordance with notice, moved the second reading of a Bill to repeal an Act passed two years ago, limiting the time within which the owners of real property may bring an action for the recovery of land to a period of twelve years after the right of action had accrued. Previously, the period of prescription was twenty years, and the object of the present Bill was to restore that term, by repealing the Act referred to. When that Act was introduced by the late Attorney General (Mr. Hocking), it was accepted by the House without comment or discussion, hon. members no doubt thinking that as the Bill, like two or three others which were introduced at the time, was purely of a technical character, and apparently devoid of interest, they might as well waste no time in discussing it. It was passed through Committee *sub silentio*, and even the various clauses were not read, the House being content with the reading of the marginal notes. The Act, however, dealt with a subject which, in a community like our own, where the greater part of the community were landowners, or hoped to be, was of very great importance. Under the old law, which the Act repealed, a man could bring an action at any time within a period of twenty years to recover a property of which he had been out of possession; but at present he could not do so after the expiration of twelve years. The late Attorney General in introducing the Bill said it was a transcript of an Imperial Act, dealing with the same subject; and so it was—a transcript of an enactment passed in England within the last six years. And no doubt the object which the Attorney General had in view in introducing a similar measure here was in order to assimilate our local enactments as far as possible with the Imperial statutes. But the provisions of an Act which might be admirably adapted to the requirements of a country like England might be exceedingly ill-suited to the circumstances of a Colony like our own, and this particular measure was a case in point. The ready and rapid means of communication, and the other facilities for intercourse and correspondence af-

forded in old countries were wanting here; and although a period of twelve years might be ample limitation in England, where a person's property could not be taken possession of for a fortnight without his knowing it, a similar period of limitation might work a great deal of hardship and injury in a scattered community like ours, where the owners of land often resided at long distances from their property, and the means of communication with which were such as, practically, to place the hostile possession of the land beyond their cognizance. Land here was so plentiful in proportion to the area of settlement, and consequently of so little value, comparatively, that the owners never troubled themselves about it for years together, as it brought in no rent, being neither let nor occupied. Such a state of things could not exist for a week in England, where it could be easily ascertained by the owners of landed property whether anybody was in hostile possession of their land. Here, on the other hand, as he had already said, no such facilities existed, and in many cases the difficulty was increased by reason of the fact that the boundaries of many properties were undefined, with any degree of exactitude; and it might easily happen that some enterprising person, by driving his sheep over a portion of another man's property, or putting up a V hut on some corner of it, might in course of time be in a position to claim the property as his own; and, if a period of twelve years elapsed before the real owner happened to discover the trespass, he had no remedy, and his land would be gone. Formerly, as he had already said, the period of limitation was twenty years, but the Act passed two years ago—and passed, he ventured to say, without any member, except the hon. gentleman who introduced it, understanding it or thinking its operation would affect the rights of property—reduced the period of prescription to twelve years. And what was the result? Owners of property were absolutely deprived of their rights, simply because they had not been impressed with the necessity of asserting them, and much injustice had been worked in consequence. What the present Bill sought to do was, by repealing the present

enactment, to go back to the old statute, and revert to the law as it stood since the reign of William IV., for it was only within the last few years that the law had been altered even in England. It might be said that some people had acquired rights under the Act which it was proposed to repeal; that they had purchased lands since it limited the period of prescription; and that they would be prejudiced by the passing of this Bill. But if that was the case, all he could say was,—those who had so acquired rights had done so at the expense of others, who had been wronged and deprived of rights which, but for the Act in question, they would still be entitled to. As he had already said, the Act was adopted by the House simply on the strength of the Attorney General's statement as to the expediency of assimilating our colonial laws with those of the mother country, and without any conception as to the practical effect of its provisions. Had hon. members been aware of the injustice which the Act was capable of working, with respect to titles to land and the rights of real property, he did not think—indeed he had the assurance of some hon. members who sat in the House at the time, that it would not have received the support which it did. Under these circumstances, he did not think hon. members could be charged with inconsistency in supporting the present Bill, which, it would be observed, not merely repealed the Act now in force but also revived the former law, which he maintained was altogether better suited to the circumstances of the Colony than the existing enactment. He now begged to move the second reading of the Bill.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said he would take upon himself the onus—it might even be said the odium—of opposing the motion. The House had heard from the the hon. member who had brought in the Bill, how, only two years ago, the Act which it was proposed to repeal had been introduced in that House—by a gentleman who knew very well indeed what he was about—in order to assimilate our laws with those of the Imperial Parliament. He could conceive no greater source of discord, confusion, and inconvenience than that our laws should

not be in strict accord with those of our mother country; and one of the most valuable of these laws was that which prescribed the limitation within which actions or suits may be brought for the recovery of property. The Act introduced by his predecessor in office (Mr. Hocking) passed, it was said, through that House *sub silentio*; but all he could say was—the House and the country owed a debt of gratitude to that gentleman for introducing this and other Acts introduced at the same time, which, though of a technical character, were most valuable additions to our statute book. The effect of the Act in question was to give us in this Colony, in precisely the same words, precisely the same law as is in operation in England; and the result was this—that with regard to real property the term of prescription within which a man can be confirmed in his holding is twice that in which he can be confirmed in his title to personal property. In other words, whereas a debt could be extinguished in six years, a man's title to landed property could not, by reason of non-occupation, be extinguished for double that period. And if a man chose to sleep upon his rights—if he did not look after his debt within six years, and his land within twelve—it was quite time the former should be extinguished, and that, as regards the latter, somebody should step in, and utilise the land. But the Bill now before the House said, 'Nay; let us rather perpetuate the dog-in-the-manger policy.' He did not intend to enter into what some people might call a philosophical disquisition upon the rights of property. He did not suppose there were a score of people interested one way or the other in the Bill; and, if there were, their property was either valuable or worthless. If valuable, they were depriving the community of its use; and if worthless, the less ado about it the better. One point, he thought, had escaped the attention of the hon. member who introduced the Bill, namely—even supposing the present Act were repealed, those estates which were created by it would not be divested. It was perfectly true that time which was now running—whether the term of prescription be twelve years or twenty—might be affected by the operation of the repeal; but the

mere act of repealing the present statute would not divest those estates which had been created, or confirmed, by it. Within his own experience, a number of persons having some years previously taken possession of certain property at Fremantle had, since the existing Act came into operation, established their right to the property. But how did they acquire that right? Simply through the carelessness and negligence of the rightful owner. And if people chose to be thus culpably careless and negligent with respect to their property, why, all he could say was—they deserved to lose it. The hon. member for Murray said land was more valuable at home than it was here, and consequently people looked sharper after it; but land in England or anywhere else was simply valuable to those who used it. As he had already said, a creditor could not now sue to recover a debt contracted over six years ago, and why should the limitation be greater with regard to real property than with reference to personal property? He could give no reason why it should be so, but still a distinction was drawn by the law in this respect between land and chattels, and the term of prescription was doubled with regard to the former, which he thought was ample limitation, both here and at home. If the object of the present Bill was—as it seemed to be—to unsettle the title of landed estates, the object was erroneous in principle, and wrong in any light they liked to look at it. Much stress was laid by the hon. member who introduced the Bill upon the fact that the Act which it was sought to repeal had passed through its various stages *sub silentio*; but it should not be forgotten that the Act was introduced by one who was known to be a very shrewd and accurate lawyer, and a very valuable man—valuable not only in society, but pre-eminently so in the position he occupied in the Legislature, which he adorned. The argument put forward in favor of repealing the Act, an Act which was a counterpart of a statute that had occupied the critical attention of the Imperial Parliament for many years—namely, because it had not evoked any discussion in that House—was, it appeared to him, puerile. Would any man, whatever might be the views he entertained with regard to the

principles involved in such measures as the Roman Catholic Relief Act, or the Test Act, or the Reform Bill, which (like the Real Property Limitation Act) had occupied the attention of the British Parliament for years before they became law; would any man ever think of repealing such enactments because they might have ultimately been passed in a comparatively thin House? If such an argument as this were to be entertained for a moment, there was an end to anything like certainty in legislation. It was true that other Bills passed in that House had been subsequently repealed soon after they became law; but they were enactments dealing with essentially trivial matters—such as lucifer matches. It was true also that only the other day a Bill had been introduced by himself to repeal an Act passed at their very last Session—the Public Officers Act; but that enactment was passed under a misapprehension, and by implication questioned the prerogative of the Sovereign. Such measures as those bore no analogy whatever to an important enactment like this, and he would vote against the Bill, even if he did so single-handed, for it sought to introduce a vicious principle, of repealing—without just grounds for doing so—a measure that had not been framed inconsiderately, but on the contrary had occupied the critical faculties of British statesmen and of the Law Officers of the Crown for several years; and because, also, it was somewhat puerile to argue that a Bill should be repealed because it had been passed in a thin House, or had not called forth the usual amount of talk, or because the hon. member happened to be on one side of the House this Session, and on another side the next. If the Act had proved in any way injurious in its operation, the fact would have been pointed out, and there might have been some show of reason for introducing the present Bill. But nothing of the sort had been done. The whole question of statutory limitation with reference to land had been discussed over and over again in the British Parliament, from the time of James I. down to the 38th year of the reign of Her present Majesty; and the House might rely upon it, that if they repealed such an Act as this, the Secretary of State,—or whoever it was who held the scales of

our legislation,—would require much stronger reasons for assenting to such a measure than the totally inadequate reasons that had just been adduced.

MR. S. H. PARKER said he proposed going a little further than the hon. gentleman who had just sat down, in his opposition to the Bill, for it was his intention to move, as an amendment upon the motion before the House, that the Bill be read a second time that day six months. And he did so for this reason—one of the objects aimed at by Imperial legislation for years past had been the simplification of title to land, and the principle which it was now proposed to repeal was one that had been thoroughly discussed before it was finally adopted by the British Parliament, and accepted as the law of the land. The measure was originally introduced in the mother country, during Mr. Gladstone's previous Administration, by Lord Selborne—not only one of the most accomplished lawyers of the present day, but one of the most eminent among English lawyers of any age—who proposed that the period of limitation should be ten years instead of twenty, and not twelve as was the case now. But the Bill did not become law during the term of office of that Administration; and the Act, of which our local statute was the counterpart, limiting the term of prescription to twelve years, was introduced by Lord Cairns. He had not heard that the Imperial statute had operated injuriously at home, nor did he think that the preamble of the present Bill—which set forth that the provisions of our own Act had been found unsuited to the circumstances of the Colony—had been proved. At any rate he had never heard of a case where any hardship or injustice had been worked by it, or of any man being deprived of his property in consequence of the period of limitation having been reduced. But he knew of more than one instance in which land had been purchased with a view to occupation, on the strength of the present Act; and the money so spent would virtually be thrown away if this Bill passed. Surely twelve years was long enough for any man to sleep upon his rights, even in this Colony; and it appeared to him that if the owner of land here resided away from it, and out of the Colony, for that period of time, without

taking steps to assert his rights and title to it, and another man chose to occupy and utilise it, that man ought to be confirmed in his title. Not only was such a principle fair towards the occupier, but also beneficial to the country. He therefore thought we might safely leave the law as it stood. The only persons it could prejudicially affect were those who were not entitled to any consideration at the hands of that House—men who resided out of the Colony, and would neither utilise the land themselves, nor allow anyone else to do so, if they could help it.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) seconded the amendment, without comment.

MR. STEERE said he felt bound to support the original motion. He quite agreed with what had fallen from the hon. member for the Murray in introducing the Bill, that if any explanation had been afforded the House when the present Act was passed, as to the effect it would have upon the rights of property, it would never have been agreed to, as it was, without a word of opposition. Lands here were very much scattered, and it was no easy matter, in many instances, for the owners to visit them, much less was it convenient for them to occupy them; and he could quite understand that, under the law as it now stood, a man might be deprived of his title to land without being cognisant of the fact that he had been running any risk of doing so. It was all very well to say that the law was one which had received most careful consideration in the Imperial Parliament, and that its provisions were admirably suited to the country to meet whose requirements it was framed; but many an enactment that might apply to the circumstances of the mother country would be utterly inapplicable to the requirements of a Colony like this. Nor did he think that if the House repealed the Act which the present Bill sought to repeal, the Secretary of State would recommend Her Majesty to withhold her assent to it, if it were shown that it was—as it certainly appeared to be—unsuited to the circumstances of the Colony.

MR. SHENTON said he held a seat in the House when the Act in question was first introduced, and the only ex-

planation then offered for bringing it forward was, in order that the law here might be assimilated to the law in England. No one had any idea of the manner in which the Act would affect the rights of property, and the Bill was looked upon as quite a harmless measure, and one that was likely to remain a dead letter. But this, it appeared now, was a mistaken notion, and he thought the House would be quite justified in repealing it.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said he was not a lawyer, nor did he view the question from a legal aspect, but he thought the existing Act would, in time, prove a very beneficial measure. It was a notorious fact that in this Colony—and it was a singular misfortune for the Colony that such should be the case—many owners of property appeared to be utterly regardless of their rights and obligations as property-holders. Extensive areas of land were held from one generation to another, and not a finger was moved to bring it under a state of cultivation, or to throw it open for sale or lease. The owners, pursuing a dog-in-the-manger policy, would neither utilise the land themselves nor allow other people an opportunity of doing so. Many of these landed proprietors were absent from the Colony, and contributed nothing towards the cost of government, towards road-construction, or any other works undertaken at public expense for encouraging settlement, and increasing the value of their property. They were waiters upon Providence—so many Micawbers, waiting “for something to turn up” which would enable them to make a good bargain for their land, when the opportunity offered. He thought that any measure which would have a tendency to force these people to utilise their land, or let others do so—any measure calculated to impress upon the owners of these landed estates that property had its rights, must prove a very beneficial measure. The present Bill would not have that effect, and consequently he felt bound to oppose it.

MR. CROWTHER was afraid that some of the owners of property, referred to by the hon. the Commissioner of Crown Lands as waiters upon Providence, were waiters upon the Survey Department—

waiting for the boundaries of their land to be described. The Bill, however, would have his support.

Mr. MARMION thought it was a pity that hon. members who sat in the House when the present Act was passed did not then specify the reasons which they now urged against it. He considered that the only mistake made with respect to that Act was, that some future date was not fixed for it to come into operation, so as to enable the owners of land likely to be affected by it to protect themselves. The measure, however, had become law, and it had not been shown that evening that any hardship or injustice had been caused in consequence. He quite concurred with the Acting Attorney General as to the probability of the Bill repealing such an Act being disallowed by the Imperial authorities, for he could easily conceive how strange it would appear to the Secretary of State that, two years after passing an Act to assimilate our law with that of the mother country, we should, without any apparent reason, repeal it, and revert to the old statute. It, therefore, appeared to him a needless expenditure of time and of speech to engage in the further consideration of the Bill, and for that reason he would support the amendment.

Mr. BURT said, as to hon. members not having urged any reason against the introduction of the present Act years ago, the fact was, they were then utterly in the dark as to the results which the measure was likely to bring about. As to what had fallen from the hon. the Acting Attorney General about the uncertainty of legislation, and the puerility of repealing measures that had received the previous sanction of the House, the hon. gentleman was forced to admit that some of his own Acts had to undergo the very same operation, when they came to be submitted to the Imperial authorities. When a measure had been fully discussed in that House, with a full knowledge of its probable consequences, it might be regarded as puerile to attempt to repeal it as soon as it became law; but the case was altogether different here, for the Act which it was now proposed to repeal had never been discussed at all in that House, and hon. members admittedly were in ignorance of its provisions, or at any rate of what the practical effect of such an

Act would be. That position had not, and could not, be assailed. Nor could it be shown that the circumstances of this Colony, as regards landed property, were in any way analogous to the circumstances of the mother country. The question had been asked, why should the term of limitation in regard to real property be any longer than the term of limitation as to chattels, and this was urged as an argument against the present Bill. But, if it was proposed to argue from analogy, the position was this: the present law with regard to pecuniary debts was that (unless otherwise provided) they became extinguished within six years after they were incurred; and, supposing a man held a bill of exchange in security for a debt, and that he had held the document for four or five years, and an Act was then passed reducing the term of limitation to three years, the security would be valueless, and an act of gross injustice would be committed. How would any hon. member, holding such a security, like that?

The Council then divided upon the motion for the second reading, with the following result:

Ayes	11
Noes	7
Majority for	4

AYES.

Mr. Brown
Mr. Burges
Sir T. C. Campbell
Mr. Crowther
Mr. Grant
Mr. Hamersley
Mr. Higham
Mr. Randell
Mr. Shenton
Mr. Steere
Mr. Burt (Teller.)

NOES.

The Hon. E. T. Golds-
worthy
The Hon. G. W. Leake
The Hon. M. Fraser
Mr. Marmion
Mr. S. S. Farker
Mr. Venn
Mr. S. H. Parker (Teller.)

Bill read a second time.

IN COMMITTEE.

The various clauses of the Bill were agreed to without discussion.

Preamble and title agreed to.

Bill reported.

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