

Stone, Sir T. C. Campbell, Mr. Burt, and the mover, and, by leave, Mr. Marmion and Mr. Randell, with power to call for persons and papers.

The amendment was agreed to.

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

## LEGISLATIVE COUNCIL,

*Tuesday, 3rd August, 1880.*

Superintendent of Roads: salary and travelling expenses of—Eastern Railway: terminus station at Fremantle—Jury Act: report of Select Committee—Real Property Limitation Act, 1878, Repeal Bill: re-committed—Adjournment.

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

PRAYERS.

### SALARY AND TRAVELLING EXPENSES OF THE SUPERINTENDENT OF ROADS.

#### IN COMMITTEE.

MR. SHENTON, in accordance with notice, moved the following resolution: "That, in the opinion of this Committee, the expenses of the Superintendent of Roads have been large in proportion to the amount of the Road Loan expended." So much had been said and written recently about this matter, that it would be quite unnecessary for him to trespass on the time of the House at any length. He found, on reference to the return he had called for the other day, showing in detail how certain items of expenditure incurred by the Superintendent of Roads had been made up, that the salary paid to that officer up to the 31st March, 1880, amounted to £549 6s. 6d., while the travelling expenses amounted to £150 13s. 2d., making a total (in round numbers) of £700; in addition to which a sum of £91 11s. had been expended in the purchase of a car-

riage and pair for the Superintendent. On referring to the return furnished by that officer, showing the financial position of the Road Loan at that time (31st March), he noticed that the expenditure on account of the loan up to that date was £5,875, and that the amount of liabilities on contracts then existing was £1,608 10s., being a total expenditure, incurred under that officer's superintendence, of £7,483. So that it cost the Colony £700 at this rate to superintend the expenditure of £7,000—apart from the carriage and pair. In one of his reports, the Superintendent said the cost of supervision was less than six per cent. on the total amount expended; but that statement did not at all agree with the figures which he had just quoted, and which showed a percentage of about ten per cent. Under the old system, before the Superintendent of Roads appeared on the scene, when the supervision of the roads and the control of the money voted annually for road purposes were in the hands of the District Boards, the grants for the year (£11,000) never involved an expenditure in one year of more than £450, which was considerably less than the percentage under the present system of supervision. He had brought this matter under the consideration of the House with a view to solicit an expression of opinion thereon, on the part of hon. members, and in order that some recommendation should be made to the Government as to the manner in which the road work should be carried out in future by the Superintendent. No doubt there existed considerable difference of opinion on the subject, but he thought few would deny that there was room for improvement upon the present system. As to the Local Road Board in the district which he represented, the Government communicated with them asking them what works they considered most necessary to be done on the main road between Newcastle and Perth. In reply to that communication, the board sent down a memorandum showing what they considered was required, but their recommendations did not receive any attention whatever at the hands of the Superintendent, and other work was undertaken by him which anyone who had travelled on the road could see was not so urgently required as the work which had been recommended

by the Board. He did not think the present system in any way comparable with the old system so far as ensuring an effective and economical performance of road-work went, and he thought it would be far better if some arrangement could be made whereby the various Roads Boards should have the supervision of the work to be done in their respective districts.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said, perhaps if he explained how the expenses of the Superintendent had been incurred, the hon. member would be induced not to proceed with his motion. It must be borne in mind that Mr. Higman arrived here from another Colony, an utter stranger to our local requirements, and perfectly unacquainted with any part of the Colony, and that therefore it was necessary for him, in the first place, to visit the various districts, North, South, and East, for the purpose of seeing what was wanted to be done; and it was hardly fair to say that the expenses thus incurred upon Mr. Higman's first arrival in the Colony were expenses which were fairly chargeable to the ordinary supervision of roads. Hon. members were aware that travelling in this Colony was not unattended with very considerable expense, and Mr. Higman, he might say, had not exceeded any other officer's usual travelling charges. If the hon. member for Toodyay would deduct from the total amount of the Superintendent's expenses the amount that might fairly be charged to the trip which it became necessary for him to make throughout the Colony, upon his first arrival here, the hon. member would find that Mr. Higman was not far wrong when he stated that the percentage of actual supervision compared with the actual expenditure out of the Loan did not exceed six per cent. He might inform the House that when Mr. Higman first came here he received no fixed travelling allowance, the actual charges incurred by him in travelling being paid; but it was thought better after a time that he should receive some fixed allowance, and a sum of 15s. per diem was allowed him when travelling. Hon. members who had been accustomed to travelling about in this country would not regard that as an excessive allowance, bearing in mind what the hotel expenses,

and other charges of that nature, were. This amount, however, did not include forage for the Superintendent's two horses, which he was allowed to draw from the various police stations. He (the Colonial Secretary) was very sorry himself that the motion submitted by the hon. member for Toodyay had been brought forward in the way it had, for it seemed to him to cast a reflection upon Mr. Higman, which was uncalled for. He would avail himself of the present opportunity of bearing his testimony, which he was sure would be endorsed by the Director of Public Works were he present, as to the very energetic manner in which the Superintendent of Roads had performed, and was performing, his duties, and the valuable aid which he rendered to the Central Road Committee. He knew there was a strong feeling, and he might say a prejudice, against Mr. Higman as "a competent man from the other side." He deprecated such a feeling very much. It was very discouraging to any man. Mr. Higman had not received fair play from the very commencement, attacked as he was on all sides by the public Press, which spared no effort to detract from his ability, and his knowledge of the duties he was called upon to carry out. Exception had been taken to what Mr. Higman had said about the Roads Boards in a certain letter addressed by him to the Governor, and published in a local newspaper. He did not altogether agree with what was said in that letter, for he thought that when Mr. Higman stated that the Roads Boards spent £2,000 in supervising the expenditure of £11,000, he rather overshot the mark, and he thought the Superintendent himself was now aware of his mistake, and would be the first to admit it were he here. But we are all liable to make mistakes some times. [Mr. S. H. PARKER: Hear, hear.] Even the hon. member for Perth. And although Mr. Higman was not infallible, or put forward any claim to infallibility, he was, in the opinion of his superior officer, (the Director of Public Works) carrying out his work in an economical and satisfactory manner. He therefore hoped the hon. member who had brought forward this motion would not press it upon the Committee. He felt sure the hon. member had brought it forward

with the very best intentions; at the same time, he thought his own goodness of heart and that sense of fair play which was characteristic of Englishmen would lead him to the conclusion that quite enough had already been said about this particular officer.

After a considerable pause,

Mr. CAREY said, as no other member seemed inclined to rise, he wished to add his humble contribution to the debate. The hon. gentleman who had last spoken had alluded to the necessity there had been for the Superintendent, on his first arrival in the Colony, to travel throughout the various districts, in order to make himself acquainted with the condition of the roads. It might be interesting to hon. members to hear some account of the visits paid by Mr. Higman to the Southern districts. The first occasion on which the district was honored by his presence was in June, 1879, and he certainly did then travel over most of the roads; he even extended his visit to parts of the district where it was very unlikely—where indeed it was out of the question—that any portion of the Road Loan would ever be expended there. His next visit to the district was when the Council was sitting last Session, the object of his visit being totally unconnected with the Road Loan, namely, to get the jetty at Bunbury repaired. On that occasion he made some arrangement with a gentleman connected with the timber trade to superintend the work of repair at the jetty, at 15s. per diem, but as this gentleman during the progress of the work was for the greater part of the time engaged at Yelverton's station, 45 miles from Bunbury, payment was neither claimed nor made. But the fact remained that the agreement was entered into. Mr. Higman's next visit to the South was in November, at the time of the agricultural shows; but no work whatever connected with the Road Loan was done, though, at the same time, no doubt, Mr. Higman thoroughly enjoyed himself, for on that occasion he was observed sporting his figure on horseback, escorting a number of ladies about. Early this year, he paid another visit, for the purpose of examining the Bunbury jetty, in connection with the question of the relative merits of square piles and round piles—a subject

that could hardly be regarded as having anything to do with the Road Loan. On that occasion Mr. Higman also examined the Vasse Jetty and went as far as Augusta in search of information on the same subject, and some time afterwards the country had the benefit of his valuable researches in a letter which he addressed to the Director of Public Works, and published at the time in the *West Australian* newspaper, in which Mr. Higman gave his verdict in favor of square piles—much to the delight of Mr. Thomas, his chief, but certainly contrary to the teachings of experience. Since then the district had been honored with another visit from the Superintendent of Roads, who was accompanied on that occasion by the Commissioner of Crown Lands, and although there were some very important and extensive road works then in progress in the district, and especially between Australind and Brunswick, Mr. Higman never visited them. He informed the chairman of the Roads Board that he would come back and do so on the following Tuesday, and would then bring a surveyor with him to take levels, etc., between Hester's Hill and Bridgetown—he, a competent man from the other side, would have to bring a surveyor with him. Tuesday came, but no Superintendent. A telegram was however sent to the chairman stating that two surveyors would be sent down from head-quarters; and in course of time the two so-called surveyors appeared on the scene—one was a clerk in the Works Department, and the other a mechanical engineer, who spent about a fortnight pottering about the Blackwood district, and who knew no more about roads and road-surveying than a baby in arms. Surely if there was any surveying necessary (and he maintained there was not), it was the duty of the Superintendent, who is supposed to be a road surveyor—and coming from the "other side" a "competent" one—to have done the work himself; or, if he couldn't do it himself, there were two other surveyors in the district at the time (Mr. A. Forrest and Mr. Brooking) who certainly were competent. That was the history of Mr. Higman's visits to the Southern districts.

MR. CROWTHER said he was, like the Colonial Secretary, somewhat dis-

appointed with the resolution before the Committee, for it disclosed the existence of abuses without at the same time proposing any remedy for those abuses. When he said abuses, he meant as regards the expenditure of the Road Loan, which he certainly considered had been abused. He said so, without any reference to Mr. Higman, for he did not blame that officer so much as the head of the department, the Director of Public Works, who was the responsible person in this matter. Mr. Higman being bound to obey his chief, went wherever his chief sent him; and they could not blame the poor man if, instead of being employed in superintending roads he was despatched to superintend a jetty. What he complained about, and what he believed the House complained about, was not so much with respect to Mr. Higman's doings, as about the system in operation at the Works Department, and the supercilious, and altogether contemptuous, tone of the reports emanating from that department.

MR. VENN said it appeared to him, from what he had heard that evening, and from what he had read, in connection with this subject, that hon. members were more inclined to attack the man than the principle. He believed himself it was the system that was at fault and not Mr. Higman. He did not intend to stand up as that gentleman's champion, or to defend him in any way; but he wished as a country member, much interested like all other country members in the roads question, to say—and he believed he was expressing the views of the majority of country people throughout the Colony—that the present system of road making was at fault. It was of course impossible for the Superintendent to be everywhere, let him be ever so "competent," and let him be from the "other side" or anywhere else. As to that letter of his, which the Colonial Secretary regretted, and which drew upon the unhappy man the wrath of all the Roads Boards in the country, it certainly had done some good, for it had shown the people of this Colony that, as regards local self-government, they were quite capable of managing their own affairs, and in a far more satisfactory manner than outsiders were. He therefore deprecated any further pitching

into Mr. Higman for writing that letter, or blaming him personally for faults that in reality were attributable to the system under which he had to work. He did not think anyone could blame Mr. Higman for holding to his appointment as long as he could; he was but human like the rest of us. While on this subject, he might be allowed to say that, in his opinion, only one Road Board in the Colony had adopted the proper course with reference to the recent proposal that these boards should combine with the Government in the management of the roads. The board to which he referred was the Swan Board, the members of which had refused—and, to his mind, very properly refused—to have anything whatever to do with the Government or Mr. Higman. If all the other boards had acted in the same independent manner, there would have been no shifting of excuses, as at present, from one party to another. Under the present system, when any difference of opinion arose, the local boards had to refer to the Superintendent, and the Superintendent, in his turn, referred them to the Central Committee—thus perpetuating a system of centralisation (which he thought had tended as much as anything to retard the progress of the Colony), instead of fostering a feeling of self-dependence and local government. No one would deny but that the local system of management was a great improvement upon the present dual system, so far at any rate as the country districts and country roads were concerned. If it was deemed necessary or desirable to continue Mr. Higman's services in the neighborhood of Perth, let it be so; but let the country districts control the expenditure on their own roads, and much of the present feeling of dissatisfaction would be removed.

MR. GRANT said he had heard a great deal about Mr. Higman and his works since he had come down from the North, and, the other day, out of sheer curiosity, he went to have a look at the much-talked-of drains on the York road. He had seen most of the roads in this Colony, and a great many of the roads in the other Colonies, here and there, but he certainly never saw anything like those drains. They were constructed on a principle which, if scientific, was certainly

contrary to common sense; and he thought that practical common sense suited this Colony better than any fandangled theories, even although based on scientific principles, and carried out by "competent men from the other side," such as Mr. Higman was said to be. He might be a competent man from the other side, but he certainly wasn't a competent man on this side.

MR. BROWN said if any flagrant charges had been made against Mr. Higman or against any other public officer, he could quite understand that that House should deem it its duty to consider such charges, and to nominate a Select Committee, or to require the appointment of a commission to ascertain whether or not he was a fit man to remain in the service of this Colony. But he thought the House had travelled somewhat out of its province in endeavoring to arrive at a conclusion as to the competency or the incompetency of a professional man. If the hon. member for Toodyay had desired to point out that it was necessary to alter the system pursued with reference to the control of the Road Loan expenditure, a resolution affirming the desirability of doing so would have been a fit and proper subject for discussion in that House,—though, at the same time, the House would have stultified itself if it affirmed such a resolution, for it already had, at a former Session, an opportunity of expressing an opinion as to how the money should be expended; and, whatever was said or done on that occasion, the House certainly did not require that the various Roads Boards should have their share of the loan money, and also the control of its expenditure. The House did not do that, but left the question in the hands of the Governor. What the House did affirm was the desirability of appointing a competent road surveyor to advise the Governor and such others as His Excellency might choose to associate with him as a committee to control the expenditure of the Loan. The subject had been considered more than once in that House, and had created a great deal of feeling throughout the Colony, and been much discussed in the newspapers. A new system—which he thought was acquiesced in by every hon. member—had recently been decided upon by Governor

Robinson, who had resolved that, for the future, the control of this expenditure shall be vested in a central committee, upon which committee certain hon. members of that House, possessing the entire confidence of the country, had been appointed. If the Council was satisfied, as he believed it was, with that arrangement, surely it was out of place for the House to direct the committee as to what it was their duty to do with regard to the Superintendent of Roads, of whose abilities they had far better opportunities of judging than that House had. If hon. members claimed the right, or considered it within their province, to pronounce an opinion as to the competency or incompetency of the Superintendent, and insisted upon setting up that opinion against the opinion of the central board, such a course appeared to him tantamount to saying that the House had no confidence in the board. As for himself, he was perfectly satisfied to leave the matter in the hands of the board, which he considered was the proper thing for that House to do.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said he would have spoken earlier in the debate but that he was waiting until some meaning had been given to what appeared to him an altogether meaningless resolution. The hon. member who moved it appeared to have altogether overlooked the fact that the gentleman whose name had been so much before the House during this discussion was an officer under the direct control of the central committee, the members of which committee were now, *de facto*, under the censure of that House. That committee, up to the present time, had no fault to find with what the Superintendent of Roads, acting under the directions of one of the members of the committee, the Director of Public Works, had done; he therefore could only regard the resolution as an indirect vote of censure, and of "no-confidence" in the committee. The hon. member for the Vasse, with his usual good taste, had referred to the visits paid by the Superintendent to the Southern districts. On the last two occasions alluded to, he (the Commissioner of Crown Lands) happened to be in the district, and although the hon. member chose to imagine—for really it was but the conception of the hon.

member's own teeming imagination—that Mr. Higman was there for the purpose of “sporting his figure” and acting as a cavalier for the ladies of the district, he could assure the hon. member that important business, connected with the roads, was thoroughly entered into on both occasions by the Superintendent, whose only fault appeared to be over-zeal—a fault which no doubt time would cure. He was sure no officer could have done more than Mr. Higman to overtake the work before him. The great mistake he had made—it was not obvious to him at the time—was that he should have insisted upon the aid of at least two competent assistants to enable him to let out the work with less loss of time, instead of attempting, unaided, more than he could accomplish. With regard to the principle of construction pursued by the Superintendent, he could speak professionally, having himself been engaged in a similar capacity in another Colony; and he had no hesitation in saying that the principle upon which Mr. Higman worked was a right one, the system of construction adopted being in accordance with the rules laid down by the most recent authorities on road-making, and one which was in practice not only in England but, he believed, throughout the Australian Colonies. As he had already said, the resolution before the Committee was in itself utterly meaningless, and he failed to see what was to be gained by it, beyond affording the House an opportunity of having a fling at the Central Road Committee. That having now been done, he hoped the hon. member who brought it forward would be satisfied—that he would rest content with the halo of honor and glory with which he had surrounded himself, and, by withdrawing his resolution, let matters remain as they were.

MR. BURT wished particularly to express his concurrence with what had fallen from the hon. member for Geraldton as to the inutility of that House attempting to censure a professional man in the discharge of purely professional duties. Hon. members of course were free to entertain their own opinions on this or any other subject, and at liberty to give expression to those opinions outside the walls of the House; but he did not think it was wise or

proper that they should do so in their representative capacity in that chamber—that, as laymen, they should constitute themselves judges of the merits of any essentially professional question. Apart from this view of the subject, he thought the hon. member for Toodyay was entitled to credit for bringing this matter before the House, for, whatever might be the result, the discussion at any rate could not do harm. He should like to draw the attention of hon. members to this fact—that the system or scheme placed before the House when the Road Loan was first mooted and approved had been in a great measure departed from in some of its most important features. What was proposed to be done, and what the House agreed should be done, was to borrow a sum of money sufficient to allow of the completion, in a substantial manner, of those gaps in the main roads in the agricultural and mining centres, that were then mere sandy tracks. But the object originally in view appeared to have been altogether lost sight of, and the money was being expended in repairing roads which the House had never contemplated when agreeing to the proposal to raise the Loan. And he thought under these circumstances that the House would be quite justified in requesting that no more of the loan money should be expended,—though possibly it would not be wise to do so in the present state of our finances. He believed that if the House, when it agreed to the Loan being raised, had thought for one moment that it was going to be spent in the way it had been spent, and was being spent, there would not have been a single voice in its favor.

MR. STEERE wished to point out to the House the exact position in which they stood with reference to the Superintendent of Roads and the Road Loan. He did not at all regret this debate, for it concerned a question that very much interested country members especially, who had had an opportunity that evening of expressing their views as to the manner in which the road loan was being expended. No doubt whatever it was not being expended in the way in which it was originally intended by that House that it should be,—in joining together portions of main roads which had not

been completed. But if the House wished to carry out the resolution of the hon. member for Toodyay to its logical conclusion, namely, that the services of the Superintendent should be dispensed with, he believed the result would be that the residue of the Loan would not be expended at all. This, it appeared to him, was a matter for very serious consideration, considering the crippled state of our finances and the necessity for relieving the general revenue as much as possible from any charge upon it that could possibly be avoided. The Governor had decided that (without breaking faith with the Imperial Government) the Loan could not be expended other than under the control of a committee responsible to the Government, and, that being the case, he thought the wisest conclusion which the House could arrive at was to have it spent in the only way in which his Excellency said it should be spent.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said no principle whatever had been discussed in the course of the conversation to which the resolution submitted by the hon. member for Toodyay had given rise; but it had afforded some hon. members the gratification of lynching the unfortunate Superintendent of Roads, whose name had been brought into marvellous prominence since his arrival in the Colony. One thing was certain—Mr. Higman's services were appreciated by those to whom he was directly responsible, and he thought this ought to satisfy that House. True he had written a letter. Many years ago it had been said that no man was written down but by himself, and Mr. Higman had had a sharp suicide. Everybody must have been delighted to find how that letter which he wrote brought down upon him a cloud of witnesses in the shape of the chairmen of the District Roads Boards. Something had been said, too, about his deviations from the paths of rectitude, and his escorting ladies, on horseback, when down South; and indirectly he had been charged with being accessory to somebody else obtaining money under false pretences. Really he did not suppose the Legislature had ever descended to the discussion of so petty, so essentially petty a topic.

MR. CROWTHER said it was not members on that side of the House who encouraged these petty discussions. Petty or not petty, it could not be gainsaid that a great deal of dissatisfaction existed outside with respect to the system under which the Road Loan was being expended. Was it ever contemplated when the House voted for the money being raised that it should be spent on such roads as those between Perth and Fremantle, or Perth and Guildford? Certainly not. The Loan was sanctioned in order to connect roads, portions of which were now impassable. It might be that the Superintendent had carried out his work to the satisfaction of his superior officers, but what the House complained of was that the work had not been carried as it was led to believe it would be carried out, when they agreed to the Loan Bill. He was only sorry, so far as he was concerned, that the resolution submitted by the hon. member for Toodyay was not more definite, and conveyed in plainer terms the real feeling of the House, and of the country, on the subject. He was quite prepared that Mr. Higman had done all he could, under the circumstances, and under the system under which he worked. It was impossible for him or any other man to be in all parts of the Colony at one and the same time. No man—he did not care who he might be, however competent, whether from the other side, or this side—could, single-handed, superintend the roads throughout the whole extent of a Colony like this.

MR. CAREY said he had the pleasure last year of being complimented, in very flattering terms, by the hon. gentleman who had characterised the present subject as a "petty, essentially petty topic;" but, notwithstanding the attack made upon him on that occasion, he was happy to think he had survived the shock.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake): "Tis true; and pity it is, 'tis true!"

MR. CAREY: The hon. gentleman can spare his pity, as well as his compliments. I said nothing, in the course of my remarks upon Mr. Higman's visit to the Southern districts that could be construed, even by the leader of the bar, to a charge of embezzlement—

**THE ACTING ATTORNEY GENERAL** (Hon. G. W. Leake): I didn't say "embezzlement;" what I said was that it had been sought, by innuendo, to show that a public officer had, indirectly, been an accessory to obtaining money under false pretences.

**MR. CAREY**: The hon. gentleman, as usual, is altogether wrong in his facts. The Roads Boards do not object to the Central Road Board having the control of the expenditure of the loan money; all they want is the supervision of their roads. Let the Central Board decide where the money is to be spent, and let the Local Board spend it.

**MR. SHENTON** said his only object in bringing forward the resolution was to elicit an expression of opinion from the House upon a subject that had been engrossing public attention outside, for some time past, throughout the Colony. As for the resolution being a "meaningless" one (as characterised by the hon. gentleman opposite), if he had wished to submit a more pointed one, nothing would have been easier than to have brought forward a distinct motion of direct censure with reference to the manner in which the Loan had been expended. The very first thing he had heard of on his arrival at Albany, when returning from England, was of a pleasure trip taken by the hon. gentleman and the Superintendent of Roads down Albany way, and he believed the cost of that one trip alone was more than would cover the supervision of the whole of the roads in the district which he represented, for a year. And if he were to bring forward a direct vote of censure, it would be with reference to that and other matters connected with the expenditure of the Road Loan.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): The Surveyor General paid his own expenses on the occasion of the trip referred to.

**MR. SHENTON**: So much the worse then do the expenses of the Superintendent appear?

**THE COMMISSIONER OF CROWN LANDS** (Hon. M. Fraser) said he was loth to reply to such an impertinent remark as had fallen from the hon. member with reference to the so-called pleasure trip; but the real fact of the case was that it was arranged that he

should travel from Albany with the Superintendent of Roads, it being necessary for the Central Road Board to decide as to the construction of a certain bridge, and other important works in the neighborhood, and he was asked to assist the Superintendent in the matter. On that trip, however, the Surveyor General had paid his own expenses, and he regarded it as a piece of impertinence that it should be made the subject of flippant remarks by any hon. member of that House.

**MR. SHENTON** said, as he understood the present Governor had associated with himself and the other official members of the Central Board gentlemen having seats in that House, and enjoying the full confidence of the country, he had no wish to press his resolution any further, and, with the leave of the House, he would withdraw it.

Leave given and resolution withdrawn.

#### FREMANTLE RAILWAY STATION.

**MR. MARMION**, in accordance with notice, asked the Honorable the Colonial Secretary, "Whether the plans and specifications of the proposed railway station at the Fremantle terminus of the Eastern Railway were completed, and, if so, that they be laid upon the Table of the House, and asked when tenders are to be invited for the erection of the said station." In the report of the Director of Public Works, they were told that the first section of the railway would be open for traffic about Christmas or the end of the year; and, in the face of this statement, it did appear somewhat strange that no steps had yet been taken for inviting tenders for the erection of a railway station at Fremantle—the most important terminus of the line. In view of the short time that must elapse before the railway was opened for traffic, he thought the House and the public ought to be made aware of what were the intentions of the Government in the matter.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy) said the plans and specifications of the proposed station at Fremantle were not yet quite completed but would be ready in the course of a few days, when tenders for the erection of the building would be invited.



## JURY ACT—AMENDMENT BILL.

MR. STEERE, in accordance with notice, moved the adoption of the following report of the Select Committee to whom the House had referred the Jury Act Amendment Bill:

“Your Committee, having taken this Bill into their consideration, are of opinion and beg to report as follows:—

“1.—In Clause 1, they recommend that the radius within which Jurors can be summoned should be thirty-five miles (instead of seventy-five as in the Bill) in all places where General or Quarter Sessions are held.

“2.—They are of opinion that Clauses 2 and 3 (relating to the introduction of special jurors on the trial of criminal cases) should be struck out of the Bill.

“3.—They think that a clause should be introduced, providing that in criminal cases the right of peremptory challenge should be restricted to six, and that where two or more persons are jointly charged, they shall not sever in their challenge.

“4.—They recommend that in special jury cases, in the event of the parties agreeing, the number of jurors may consist of any number not less than four.

“JAS. G. LEE STEERE,  
“Chairman.

“30th July, 1880.”

The hon. member said no doubt the report had been perused by the members of the House, who had thus been enabled to gather for themselves how far it was proposed to depart from the original provisions of the Bill. In the Bill it was provided that the radius within which jurors should be summoned should be extended to seventy-five miles from Perth, but as that would evidently entail a great deal of expense in the way of travelling expenses and allowances, the Select Committee thought it would be better to limit the radius to thirty-five miles, which, it was believed, would be found to answer every purpose, and meet the requirements of country districts where quarter sessions were held, as well as the metropolitan district. With regard to the second and third clauses of the Bill,

relating to the introduction of a certain number of special jurors upon trials heard before common juries, the Committee, after careful consideration, had come to the conclusion that such an arrangement would not be a desirable one, and they therefore recommended that these two clauses should be struck out. They thought, however, that a clause should be introduced, providing that in criminal cases the right of peremptory challenge should be restricted to six, and that, when two or more persons were jointly charged, they should not sever in their challenge. The Committee made this recommendation under the impression—whether a correct one or not he could not say—that unfair and undue advantage was at present taken of the right of peremptory challenge, in order to weed out objectionable jurors. The Committee were unanimous in recommending this restriction upon the right of challenge. Another recommendation which had commended itself to the Committee was that, in special jury cases, in the event of the parties agreeing, the number of jurors might consist of any number not less than four, instead of having a dozen jurors, as at present. This recommendation, if adopted, would be the means of saving much expense to litigants, and the Committee were of opinion would answer every purpose equally as well as if there were a greater number of jurors empanelled. He believed a similar provision was in force elsewhere, and worked very satisfactorily, and he failed to see why it should not do the same here. These were the principal alterations which the Committee proposed to introduce in the Bill, and he had the authority of the Acting Attorney General for saying that if the House adopted the report of the Committee, he (the Acting Attorney General) would embody the recommendations in the Bill. He now begged to move the adoption of the report.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said the report, although a short one, involved very important considerations. The fourth clause was particularly worthy of the attention of the House—recommending that in special jury cases, in the event of the parties to the cause being agreeable, the number of jurors might

consist of any number not less than four. As the law at present stood, the expense of securing the services of a jury was almost prohibitory, and in many cases prevented the judge from having the assistance of juries. If the discussion of the Bill in Committee were postponed until a later day, he should be glad to frame a section embodying this recommendation of the Committee, as well as their other suggestions, if adopted by the House.

MR. CROWTHER suggested that the radius within which jurors might be summoned should be "forty" miles instead of "thirty-five," as the former distance would embrace a great number of eligible persons who would not be available if the radius were limited to thirty-five miles.

MR. BURT thought the same provisions as were recommended as regards criminal trials might be advantageously extended to civil cases, and that the recommendation relating to a reduction in the number of jurors in special jury cases, might be extended to common juries.

The report of the Select Committee was then adopted.

#### STRANGERS' GALLERIES.

THE SPEAKER, addressing the occupants of the strangers' galleries, said his attention had been called to the fact that when an hon. member was addressing the House on the previous night, there were signs of approbation or disapprobation manifested by some person or persons in the galleries. This was highly irregular, and must not be repeated. It was the wish of the members of the House that every possible opportunity and accommodation should be afforded the public to listen to the debates, and to watch the proceedings of the House; but unless the occupants of the galleries maintained order, and refrained from giving expression, while in the House, to their feelings and sentiments, means must be taken to exclude them from admission into the galleries. It must be distinctly understood that strangers in the House must not manifest their sense of approbation or disapprobation of anything that may be

said by hon. members in the course of debate.

#### REAL PROPERTY LIMITATION ACT, 1881, REPEAL BILL.

The Order of the Day for the third reading of this Bill being read,

MR. S. H. PARKER moved, That the Bill be recommitted. His object in doing so was to introduce a new clause to the effect that absence beyond seas shall not be a disability under the Act, so as to entitle an absentee to make an entry or bring an action after the period of prescription affecting persons who were not absent beyond seas. In England, and elsewhere, for years past, absence beyond seas was a disability against which the statute of limitation did not run. Several years ago, an Imperial Act was passed providing that, as regards ordinary contracts, absence beyond seas was no longer a disability; and, in 1874, it was enacted that such absence should not be a disability as regards real property. The Act containing that provision was adopted here in 1878. The Act which it was now proposed to revive made twenty years the period of limitation, under ordinary circumstances, but if the person having a right to bring an action resided beyond seas, or out of the Colony, the statute did not run against him for a further term of ten years, so that those who resided out of the Colony were placed at a decided advantage over residents in the Colony. The Act, in fact, played into the hands of absentee proprietors. In the Act which it was now proposed to repeal, provision was made that absence beyond seas shall not be a disability, and this was considered no hardship, in view of the facilities which existed now-a-days for travel and for communication. In England, as he had already said, the same state of things obtained, and he failed to see that it worked any hardship or injustice.

MR. BURT said what they were now asked to do was to re-open and re-consider the whole question.

MR. S. H. PARKER: Nothing of the kind.

MR. BURT: At any rate, I shall oppose the motion.

Question—That the Order of the Day

be discharged and the Bill be recom-  
mitted—put.

Council divided.

Ayes ... .. 10

Noes ... .. 7

Majority for ... .. 3

AYES.	NOES.
The Hon. M. Fraser	Mr. Burges
Mr. Brown	Sir T. C. Campbell
Mr. Carey	Mr. Crowther
Mr. Grant	Mr. Randell
Mr. Higham	Mr. Shenton
Mr. Marmion	Mr. Stone
Mr. S. S. Parker	Mr. Burt (Teller.)
Mr. Steere	
Mr. Venn	
Mr. S. H. Parker (Teller.)	

Question—That the Speaker do now  
leave the Chair—put and passed.

The Speaker left the Chair.

#### IN COMMITTEE.

MR. S. H. PARKER moved the fol-  
lowing new clause:—"Notwithstanding  
"anything in the said Act (3 and 4 W.  
"4, cap. 27) contained, the time within  
"which any entry may be made, or any  
"action or suit may be brought, as pro-  
"vided by the said Act, shall not in any  
"case after the commencement of this  
"Act be extended or enlarged by reason  
"of the absence beyond seas, during all  
"or any part of that time, of the person  
"having the right to make such entry,  
"or to bring such action or suit, or of  
"any person through whom he claims."

MR. BURT said the clause was calcu-  
lated to operate with much injustice in  
the case of the owners of property resid-  
ing beyond seas, who not being cognizant  
of the fact that their absence was no  
longer a disability might sustain serious  
losses of property. These people might  
be relying upon the period of extension  
which the Act provided in the case of  
absence beyond seas, and it would be  
very unfair in this way to abolish that  
period of extension, without giving them  
any notice of the intention of the Legis-  
lature to do so. If the hon. member who  
had brought forward the present clause  
was prepared to follow the course adopted  
in England when the disability was  
removed, namely, give four or five years'  
notice before the new provision came into  
operation, he might be prepared to go  
with the hon. member, but he certainly  
could not support the clause as it stood.

MR. VENN was glad of this oppor-  
tunity of explaining the course which he

adopted on the occasion of the second  
reading of the Bill. It then seemed to  
him, as regards the original owners of  
land, that it would be somewhat unjust  
towards them that any law should come  
into force which would materially curtail  
their rights, and, in many cases, possibly  
dispossess them altogether. He there-  
fore thought it right to support the Bill.  
But, after thinking more about the  
matter, it struck him that to repeal the  
law of real property limitation would be  
a mistake, simply on this ground—that  
the majority, the great majority he might  
say, of the land which would be affected  
by that law was land that had never been  
purchased from the Crown. It was  
simply a deed of gift to the present  
proprietors, who, for the most part, had  
never contributed a penny to the revenue  
of the Colony, and, so far as could be  
seen at present, never would, unless they  
were compelled to do so. And the only  
way that could be done was by inducing  
them to come back to the Colony to look  
after their property, or let somebody else  
have it. Under these circumstances, he  
felt he could consistently support the  
present Bill, and the amendment of the  
hon. member for Perth.

MR. BROWN also would support the  
amendment. He did not think it at all  
desirable that absentee proprietors should  
have greater privileges, as regards the  
period of prescription, than persons  
residing in the Colony, and be able to  
bring an action to recover property years  
after local residents had been debarred  
from doing so. At the same time he  
should be sorry to see any injustice done  
to these class of proprietors, and there-  
fore he thought, with the hon. member  
for Pinjarrah, that some timely notice  
ought to be given before the clause now  
before the Committee became operative,  
so as to enable absentee proprietors to  
take steps to protect themselves, and to  
secure their lands.

MR. BURT moved, That Progress be  
reported, and leave given to sit again.

Agreed to.

Progress reported.

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