LEGISLATIVE COUNCIL,

Thursday, 28th July, 1887.

Roads Bill and Report of Select Committee—Crown Lessees Arbitration Bill: first reading—Amendment of the 89th Standing Order—Bills of Sale Act Amendment Bill: first reading—Small Debts Bill: in committee—Representation of the Colony at the Melbourne Exhibition, 1888 (Message No. 8)—Pearl Shell Fishery Regulation Acts Amendment Bill: further consideration of, in committee—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

THE ROADS BILL AND THE REPORT OF THE SELECT COMMITTEE.

THE ATTORNEY GENERAL (Hon. C. N. Warton), in accordance with notice, called attention to the report of the select committee on the Roads Bill, and moved the following resolution:—"That the Report of the Commission appointed for the purpose of advising on the consolidation and amendment of the various Acts relating to Roads, and dated the 25th March, 1886, be referred to a select committee for the purpose of advising whether, or to what extent, the recommendations and resolutions embodied in that report should be adopted with a view to legislation." Before moving the resolution standing in his name, it might be desirable that he should give the House some little account of the course of events in connection with this roads question. It seemed that in 1885 the chairman of the Fremantle Roads Board asked the Commissioner of Crown Lands to declare a certain road. A few days afterwards the Commissioner forwarded a minute to the Governor, suggesting that the then Roads Act should be amended in certain particulars. That minute afterwards went to the then Attorney General, and, subsequently, it being deemed expedient that a Commission should be appointed for the purpose of advising on the consolidation and amendment of the various Acts relating to roads, this Commission was appointed. This was on the 7th December, 1885. The Commission consisted of the Commissioner of Crown Lands, the Attorney General (Mr. Hensman), Mr. Maitland Brown, Mr. S. S. Parker, Mr. W. Padbury, Mr. E. R. Brockman, and Mr. J. H. Monger. It seemed from what he could gather that the members of the Commission sat on different times between December, 1885, and March, 1886, when they made their report. He was not now going to criticise that report, but he would mention one thing with reference to it which was perhaps a little peculiar. Although the report contained a number of resolutions, all formally numbered, which were to form the basis of a new Act, it also contained—but not under the head of a resolution—a recommendation of considerable importance, in these words: "We recommend that a "Consolidating Bill be introduced into "the Legislative Council, and that the "present numerous Acts on the subject "of roads be repealed, and that the following resolutions be made the basis "on which the new bill should be framed, "it being understood that when these "resolutions do not interfere with the "present law, the present law should be "re-enacted." It seemed that the Commission, having made this report, a draft bill was prepared in the ordinary way by the late Acting Attorney General—though he believed it was really drawn up by a still more experienced hand—and no time was lost before that draft bill was considered by the Executive Council and revised; and ultimately it was introduced into the Legislative Council. This was during the session of 1886. When the second reading of the bill came on, an amendment was moved by the hon. member for Toodyay, that the bill should be considered next session; but, upon a division, the motion for the second reading was carried, but carried by such a narrow majority that the Acting Attorney General, who was in charge of the bill, announced next day that the Government would not proceed with the bill that session, and the bill was withdrawn, and discharged from the notice paper. During the recess, His Excellency the Governor, who appeared to have been anxious all along that the country should have the benefit of an amended bill, caused copies of it to be forwarded to the various Roads Boards throughout the colony, for their opinions upon the bill, and any recommendations which they might wish to make with reference to the provisions of the bill. In February last he (the Attorney General) had a

copy of the bill furnished to him as it had been introduced in the House, and he made therein a great number of amendments. Some time afterwards, as the reports of the various Roads Boards came in, from time to time, the Government were able at last to gather what the views of those bodies were with reference to the bill. There was found to be a considerable difference of opinion amongst them. In the more densely populated districts the bill was considered a capital one; but, in the more sparsely populated districts, as a rule, it was considered that the bill was unworkable, too cumbersome and oppressive. In order to be quite certain as to the views of the various Boards, he took the trouble to epitomise the different opinions expressed; and he had that epitome now before him, if any hon. member wished to see it. The bill was brought in again this session, and the House in its wisdom relegated it to a select committee, who did him the honor of electing him their chairman; and he saw at once that the unanimous feeling of the committee was against the bill. It was true that the hon. member for Fremantle had some slight difference of opinion as to what might happen in future as regards local taxation for the upkeep of roads, and the hon. member's opinion on that subject was included in the report of the select committee. But the opinion among the members of the committee was unanimous that the bill in its present shape was unworkable. It was too unwieldy. Sometimes the objection to a bill was that it was too fragmentary, that it was not comprehensive enough. The objection to the present bill was that it was too cumbersome and too complicated. When the report of the select committee was brought up, it lay on the table for some days unnoticed; but it was not forgotten by His Excellency the Governor, who was extremely anxious to carry out his pledges to the House, and that something should be done in the matter this session. Therefore he (the Attorney General) had brought forward the present resolution, in the hope that if the report of the Commission were referred to a select committee it would be seen how far the recommendations of the Commission might advantageously be adopted with a view to legislation. He thought the select committee might very well consist of the same members as the other select committee to whom the bill had been referred,—unless the House chose to select another committee. He might say that when the other select committee sat, a member of the committee read very carefully all the reports of the different Roads Boards; and, with the intention of going through the bill carefully, clause by clause, they made notes of every section to which any Roads Board had objected. But when the committee came to the 2nd clause, the repealing clause—feeling that it would be better to allow the law to remain as at present—they unanimously struck it out, and left the law as it stood. He hoped, in the event of the House agreeing to the appointment of a committee to consider the report of the Commission, the whole subject would be carefully and exhaustively considered, not only by the committee but also by the House, in justice to His Excellency the Governor, who had shown an ardent desire, so often, that this question should be dealt with. At the same time, should the opinion of the committee be that it would be preferable to retain the existing law, with some trifling alterations, the question was one entirely for the House to decide.

MR. HENSMAN said, as his name had been mentioned in connection with this matter, he thought it desirable he should say a word or two. The Attorney General had given what he might call a brief historical account of the progress of events which had led to the proposed consolidation of the existing Acts; and, although he could not of course from memory follow all the details of the account which the hon. and learned gentleman had given, yet he could not but believe that the account was, in brief, an accurate one. With regard to this question of the desirability of consolidating the Roads Acts of the colony, he did not think there could be two opinions on the subject. These Acts were so numerous and so interwoven together that they formed a very complicated mass of legislation; and he believed every member would be of opinion that, even if it were only for the purpose of consolidating, without any amendments, it was very desirable that all these Acts should be put into one Act. It would be observed that some of them referred to roads in rural districts, and

some to roads in towns. He thought all hon. members would agree with him that all the roads in the colony should be brought into one Act. It appeared that a Commission was appointed in December, 1885, consisting of some of the most experienced men in this colony, to report upon this question. That Commission was presided over by the Commissioner of Crown Lands, whose knowledge of the subject, he need hardly remind that House—not only theoretical but practical—was very great indeed; he doubted whether it could be exceeded by any person in the colony, or whether it could be in any way equalled, as he had constantly to deal with this question of roads in a practical manner. The other members of the Commission were gentlemen of great experience; and he believed he was not wrong in saying that, on all the main points that were discussed, they came practically to a unanimous conclusion, and the result of their deliberations was embodied in the report referred to. The last day they sat was on the 25th March, and on that day he had the honor of offering to Her Majesty the resignation of his office as Attorney General. On the 27th March he was interdicted by the Governor from the exercise of his duty. He remained Attorney General for six months longer, but, so far as his duties were concerned, he was interdicted from performing them, and from that time to this he had had nothing whatever to do with roads,—he meant in connection with legislation. With regard to the bill brought in last session, he was not a member of the House then, and he really did not know what its provisions were. Nor could he say whether it carried out the recommendations of the Commission. So far as he had been concerned he had, before he resigned, already prepared the consolidating portion of the bill, and of course he should have had to add to it, had he remained in office, the amended parts recommended by the Commission. If the bill did not carry out the recommendations of the Commission, and it was not accepted by the House, of course it was perfectly open for the House to say it did not agree with the recommendations of the Commission. But, so far as he could hear, the present bill could not be considered to be based upon the recommendations of the Commission. If the bill of last session and the bill of the present session had not met with that success in the House which the authors of either of the bills desired, all he could say was that, so far as the Commission was concerned,—unless the bills were based upon their recommendations, those recommendations could not be said to have had fair play at the hands of the House. At any rate it could not be said that he had attacked the measure in any way; therefore whatever might be its fate, it could not be said that he had had anything to do with the matter. If the bill was not based upon the recommendations of the Commission he should like to know the reason why. If it was based upon the recommendations of the Commission, well and good. All that could be said was, the recommendations of the Commission had not met with the approval of the select committee.

THE ATTORNEY GENERAL (Hon. C. N. Warton): My impression is that the bill is based upon the recommendations of the Commission generally.

MR. HENSMAN said that from what he had heard it did not follow them out except in one or two instances. His impression was that the bulk of them were not embodied in the bill. He had just made these remarks in order that the position of the Commission, of which he had the honor of being a member, might be placed before the House. It was now suggested that the report of the Commission should be referred to a select committee for the purpose of advising whether the recommendations and resolutions embodied in that report should be adopted with a view to legislation.

THE ATTORNEY GENERAL (Hon. C. N. Warton): "Or to what extent."

MR. HENSMAN said if the recommendations of the Commission as embodied in the bill were not accepted by the select committee, what was the good of sending the report of the Commission to the same committee? What was the good of going through the farce of considering these recommendations again, the committee having already condemned them in the form of a bill? It appeared to him that the proper course to pursue, if the recommendations of the Commission were not carried out by the Government, was to set them on one side, and appoint

a fresh Commission to take evidence and consider the whole question. He had mentioned these matters to the House believing that the consolidation and amendment of the Roads Acts were very desirable. That House undoubtedly preferred consolidation to a lot of irritating little bills; but the House would always ask itself what was the nature of the consolidating Act,—was it of such a nature that they could approve of its main principles? If not, the House would prefer to put up with the existing Acts, whose principles were more in accord with its views, although scattered over a great many different enactments.

MR. E. R. BROCKMAN (who was a member of the Commission referred to) said, although all the recommendations of the Commission were not incorporated in the bill, a great many of them, and some of the most valuable of them, were; but there was so much other foreign matter introduced, which the Commission never contemplated at all, and the financial and other machinery introduced were so complicated and elaborate, that the bill became too cumbersome altogether for country Roads Boards to deal with it. There was too much law altogether about it, for country Boards to understand; and, in his opinion, it was unworkable, in its present shape.

MR. VENN said he had read the reports of the various Roads Boards to whom the bill had been referred, during the recess, and he must say he was surprised to find the amount of adverse criticism which it had evoked. The Boards seemed to dread having so much power placed in their hands; and he regretted to see this dread of local self-government displayed to the extent it had been. For his own part he should like to see more of the spirit of provincialism exhibited by these country boards and other public bodies, and less dependence upon the central Government. He had hoped that the bill, which contained some very useful and important provisions, might, with a few alterations that might be made in it, in committee of the whole House, have been made a very excellent measure indeed. The action of the House with reference to the bill up to the present moment was this: it had been referred to a select committee, who had virtually snuffed it out, and now it was considered desirable to revive it again, and to refer it back to the same committee. He could not see what object was sought to be gained. He thought the House itself ought to take the bill in hand and discuss it, and see whether it might not be improved upon; so that, with the amendments made in it, it might be re-introduced next session.

MR. RANDELL said he was rather mystified with the course proposed to be taken on the present occasion, which was different from that pursued in that House on any former occasion, with reference to the report of a select committee. The usual course was to move the adoption of the report, put the question to the vote, and abide by the decision of the House; and he thought that would have been far the better course to have pursued with regard to the report of the select committee on this occasion. He believed the main objection to proceeding with the bill last session was the late stage at which the bill was brought on, and the minds of most members being occupied with the land regulations. There was a general consensus of opinion that consolidation was necessary. He thought the members of the select committee had been a little frightened by the size of the bill. He believed the bill would work smoothly enough after a little experience. The same principle was in operation in the Municipalities, and a great deal of the bill was occupied with technicalities, which at first might appear to be redundant; but it was very necessary to have well-defined regulations, with reference to elections, audit, and other matters. He thought the more material points affecting the actions of District Boards as to the formation, upkeep, and management of roads were simple enough. He understood the financial arrangements contemplated by the bill were objected to by the committee; and he knew there was a feeling against compulsory rating in the country districts. It was a question upon which differences of opinion might prevail. The present bill made local rating compulsory, whereas in all former Acts it was optional; and they knew that none of the Boards had availed themselves of the powers of rating given to them. Upon a fair consideration of the matter, he was inclined to think it

would only be right and proper, and in the best interests of the country districts and of the Roads Boards themselves, if the bill were proceeded with. He thought the House should either accept or reject the report of the select committee, and deal with the bill accordingly, rather than have the whole matter again referred to a select committee. If there were sections of the bill which were considered objectionable, they might be eliminated in committee of the whole House. He would therefore move, as an amendment upon the resolution of the Attorney General, "That this bill be considered in committee of the whole House on Monday next, August 1st."

POINT OF ORDER.

MR. HENSMAN asked for the Speaker's ruling upon a point of order. This bill had already been referred to a select committee, and that committee had made a report; that report had been brought up; and, according to the 79th Standing Order, "if any measure or proceeding be necessary upon the report of a committee, such measure or proceeding shall be brought under the consideration of the Council, by a specific motion, of which notice must be given in the usual manner." He understood this was necessary in order that the House might be in possession of the report, and the motion relating to it would enable the House to discuss the report generally. But the motion of the Attorney General, now before the House, did not refer to the report at all, nor affirm its rejection or adoption; but that the report of a certain Commission should be referred to a committee of the House. It had nothing to do with the report of the select committee, which was not before the House at all. The motion of the Attorney General was a substantive motion, dealing with the report of the Commission.

THE SPEAKER: The hon. member has accurately stated the position.

MR. HENSMAN: Can we consider the present motion before the House as affecting the report of the select committee on the bill?

THE SPEAKER: It has nothing to do with it. It is quite an independent motion, to which an amendment has now been proposed by the hon. member Mr. Randell.

MR. HENSMAN: I am referring to the 79th rule, which says that if any proceeding be necessary upon the report of a committee, such proceeding shall be brought before the House, by a specific motion. The question is, whether an amendment upon a resolution of this kind is a "specific motion," of which (according to the rule) "notice must be given in the usual manner?"

THE SPEAKER: I think the meaning of the 79th Standing Order is, that if anyone wishes to take any notice of the report of a select committee brought up, he must do it by a specific motion; but I do not think there is anything in the rule to prevent the hon. member Mr. Randell to move his amendment, that the House go into committee on the bill on Monday next. The report of the select committee does not do away with the bill. The bill is still before the House, and may be carried through all its stages, notwithstanding the report of the select committee.

THE ATTORNEY GENERAL (Hon. C. N. Warton): I can only say, on behalf of the Government, that I shall only be too happy to assent to that course.

MR. HARPER said that, representing as he did a district very much interested in roads, and having been also a member of the select committee to whom the bill was referred, he should like to say a few words. It appeared to him, from what he had seen of the bill, that the recommendations of the Commission were embodied in it, to a considerable extent; but the advantages of embodying these useful and practical recommendations were so neutralised by the elaborate machinery introduced by the framers of the bill as to make the bill so cumbrous that it was felt by practical men that it afforded very little prospective benefits to the country districts. This estimate of the bill was, he observed, supported by the verdict of the majority of the Roads Boards, who had expressed an opinion with reference to the bill. He thought the much simpler course would have been—rather than attempt to deal with the bill in its present form—to have taken the report of the Commission and the suggestions of the various Roads Boards, and draft a fresh bill in accordance therewith, and in a much simpler form than the present bill. It must be obvious

to hon. members that, where the machinery provided was very elaborate, it would be more difficult to get country people to act when they found that the working of the bill caused a heavy demand upon their time; and the result would be that the management of their roads would fall into the hands of those who, he was sure, that House would not consider the most suitable persons to be entrusted with the work, namely, those who by accident happened to live within an easy distance of the Board's meeting-place. The select committee who had the bill under their consideration were of opinion that the whole bill required to be re-drafted; and, as that was a work that was not within the province of the committee, they virtually suggested that the bill should be shelved, in its present shape, the committee deeming the existing law preferable.

MR. LAYMAN thought if the bill had been brought before a committee of the whole House, instead of being referred to a select committee, it would most probably have been shaped into a measure that would have been acceptable to the whole country. The bill had been before the House, and also before the country, for a considerable period, and it appeared to him they had lost quite enough time over it, before taking it in hand in earnest, and seeing whether it could not be licked into shape.

MR. RICHARDSON said that, so far as he could understand the principle of the bill, it appeared to him to be essentially a consolidating measure. It did not appear to contain many new enactments or clauses, or regulations for the guidance of Roads Boards, that did not already exist; and they all knew that these boards had worked admirably under the existing law. He did not think any body of public men could work better or more effectively to carry out the object of their existence than these Roads Boards; and he thought that one thing that might be urged in favor of the conclusions of the committee who said they preferred the existing law to the proposed bill was —"Let well alone." He thought the object of consolidation was to condense and to render more concise; if so, the present bill appeared to have failed altogether in its most essential principle. So far from having made the law more concise and more intelligible, the consolidated measure appeared to have made it more cumbersome and more unworkable and less intelligible than ever. He thought the provisions of the existing law was such as to enable the Roads Boards to discharge their functions very well indeed; for no one who had any practical acquaintance with the working of these boards could gainsay that they did do their work admirably, with the machinery already at their command.

MR. MARMION was afraid that the size of the bill had frightened some of their country friends. He would not insult their intelligence by suggesting that they had been unable to grasp its provisions. If it should be that they had not been alarmed by the portentous bulk of the bill, then it appeared to him that the only alternative was that there was something in it which they disliked even more than its "elaborate machinery." That thing was—the compulsory principle of local taxation. He was very much afraid it was that which had made them condemn the bill as unworkable. That was a principle which he had advocated in connection with this subject for a great many years in that House, and he should never be satisfied until he saw it carried into effect, in the same way as it was being carried into effect in the towns, where the residents taxed themselves for the entire support of their roads. He would not go so far as that with the country districts, for he acknowledged that their circumstances differed from the circumstances of towns, and he would be satisfied with a modified system of taxation or rating in the country districts. But he would insist that, unless these districts voluntarily taxed themselves for the maintenance of their roads, neither should they receive any support from the public funds of the colony for that purpose. Their lands and their properties had been largely enhanced in value by the construction of roads and railways out of public funds, and he thought it was high time that our country friends realised that fact, and gave some practical proof that they did realise it, by putting their hands in their pockets, in the same way as the residents of towns had to do. He should not oppose the amendment to go into committee on the bill,

in the hope that they might be able to knock the bill into shape, if only for the purpose of consolidating the existing Acts.

The amendment to go into committee on the bill, on Monday, was then agreed to.

AMENDMENT OF 89TH STANDING ORDER.

THE ATTORNEY GENERAL (Hon. C. N. Warton), in accordance with notice, moved that the 89th Standing Order be amended, by adding thereto the following words, — "or as considered on report, as the case may be." The order at present was in the following terms: "That before a bill shall be read a third time, the Chairman of the Committee shall certify that the amended print is in accordance with the bill as reported." The necessity for the proposed amendment arose in consequence of the suggestion made the other evening by the hon. and learned member for Perth, that we should assimilate our procedure with that of the House of Commons and other parliamentary assemblies, as regards the report stage of a bill. It was quite clear that there was a very important difference at present between our procedure and that of the House of Commons as regards the adoption of the committee's report. Here the report of the committee was adopted immediately the report was made to the House, giving no time for the consideration of the report. In the House of Commons the consideration of the report was a very important stage, when amendments had been made in committee. If in England, where they had a second chamber, it was considered necessary to have a stage for a further review of a bill after it passed through committee, it was obviously more necessary that there should be such a stage in an assembly like our own. The Chairman of Committees, however, had pointed out that, under our present rules, there was a difficulty in the way of adopting the procedure of the House of Commons, inasmuch as he had to certify, before a bill could be read a third time, that the amended print of a bill was in accordance with the bill as reported by him to the House,—which, of course, he could not do if the bill should be further amended by the House itself, after it emerged from committee, upon the motion for the adoption of the report. The object of the present amendment was to meet that difficulty. It would enable the Chairman to certify that a bill was in accordance with the bill as reported, or, in the alternative, that the bill was in accordance with the bill as considered on report; so that, if a bill passed through committee without amendment, the Chairman would certify as at present; but, if the bill was amended, the Chairman would report that the amended print was in accordance with the bill as considered on report.

THE SPEAKER: It will be recollected that when this question was before the House the other night, I said I was not then prepared to say how the difficulty could be got over of the Chairman of Committees having to certify, before a bill could be read a third time, that the amended print was in accordance with the bill as reported, if, after the Chairman made his report, the bill should be again amended by the House, with the Speaker in the Chair. I am sorry the Attorney General, before placing this motion on the Notice Paper, did not consult me. I have considered the point since the other evening, and I have come to the conclusion that we had better adopt the course followed in the other colonies, —to recommit a bill when further amendments have to be made in it. In the other colonies the Chairman of Committees has to certify bills exactly in the same way as the Chairman does here. I would point out to the Attorney General that it would be impossible for the Chairman to certify to proceedings on a bill with the Speaker in the Chair—proceedings which had taken place when the Chairman was not in charge of the bill. I think the Attorney General will see, upon reflection, that his amendment could not be carried out in our House. I agree it is not desirable that the moment a report is made it should be adopted, but that some time should intervene. There is nothing, however, to prevent that course being followed under our present rules. The only difference between the procedure in the other colonies and in the House of Commons is that when a bill comes forward again and amendments are proposed, the bill has to be recommitted, instead of the amend-

ments being made with the Speaker in the Chair.

THE CHAIRMAN OF COMMITTEES: His Honor the Speaker and myself considered this subject, and we came to the conclusion that it would be much better to adhere to the practice of the other colonies, rather than adopt the procedure pursued in the House of Commons. Even if I were in the House when the amendments were made, I could not certify as to the proceedings that took place when the Speaker was in the Chair. I think the much simpler plan is to recommit a bill if any further amendments are necessary, after the bill has been reported.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said he owed an apology to His Honor the Speaker for not consulting him before placing this motion on the Notice Paper. He regretted that His Honor and also the Chairman of Committees should differ from him upon this point. He was afraid they were sacrificing a very important matter for a ministerial act of the very lowest order. The opportunity of introducing further amendments upon the report stage was one which was considered in the House of Commons a most valuable opportunity. They were all, apparently, agreed as to the importance of having a report stage, and he was sorry a mere question of form should be allowed to operate against the adoption of the procedure which he should have liked to have seen followed. In the House of Commons, the power of recommitting a bill was in addition to the power to amend it upon the report stage—so careful were the rights of the public guarded. He bowed, however, to the suggestion of His Honor the Speaker, and, with leave of the House, he would withdraw his amendment.

Leave given, and motion withdrawn.

BILLS OF SALE ACT AMENDMENT BILL.

MR. PARKER, in accordance with notice, moved for leave to introduce a bill to further amend "The Bills of Sale Act, 1879."

Leave given; bill brought in, and read a first time.

SMALL DEBTS BILL.

The House went into committee upon this bill.

Clause 1—Reduction of fees in actions for sums not exceeding £5:

Agreed to, without comment.

Clause 2—"That notwithstanding any "Act or Ordinance or any rule of Court "to the contrary, it shall be in the power "of the magistrate of a local court to "award costs to the plaintiff on the scale "for actions brought for a sum exceeding "£20 on any amount recovered, however "small, or to the defendant who success-"fully defends an action brought for any "amount, however small, provided the said "magistrate certify that the action in-"volved some novel or difficult point of "law, or that the question litigated was "of importance to some class or body "of persons, or of general or public in-"terest:"

MR. PARKER said he should like to see the jurisdiction of these Courts extended from £50 to £100. It seemed very hard that a man to whom another owed a little over £50 should have to bring his action in the Supreme Court, at Perth, when the parties resided perhaps hundreds of miles away. There had been petitions to the House on the subject, on former occasions, and he thought the present would be a very opportune time for carrying out the proposed change.

MR. HENSMAN said he should have wished to have seen some provision made for giving parties who brought an action in these Small Debts Courts an extended power of appeal, upon the facts. He approved of the clause so far as it went; but he should have liked to have seen other amendments introduced. The bill, he apprehended, could only be regarded as a temporary experiment, for he thought the time had arrived for introducing other changes into the constitution and jurisdiction of these courts, bringing them more into harmony with the practice of county courts in England, which had been altered very much of late years.

MR. PARKER said as to the right of appeal, there was full power to appeal now on points of law, and the admission or rejection of evidence. He doubted very much whether it would be desirable to extend the power of appeal to questions of fact. If the whole of the evidence had,

upon appeal, to be gone through over again in the Supreme Court, it would be better for a man to bring his action in that Court in the first instance.

The clause was then put and passed.

Clause 3—Short title:

Agreed to.

Progress reported.

MELBOURNE EXHIBITION, 1888

(Message No. 8).

The COLONIAL SECRETARY (Hon. Sir M. Fraser) brought under the consideration of the House the message sent down by His Excellency the Governor, asking the House to favor him with its views as to whether this colony should be represented at the Centennial Exhibition, to be held in Melbourne in 1888. Another communication had been received by the last mail from the Victorian Government, requesting to be favored with a reply to their previous communication on the subject, forwarded with His Excellency's message. He was afraid that considerable difficulty would occur in securing an adequate representation, unless a good round sum of money were voted for that purpose; and he thought they would all agree that unless they had such a representation of the colony's resources as would redound to its credit, it would be better not to put in an appearance at all. He thought that considering the efforts and the expenditure made in the past, in the same direction—true with satisfactory results—they should pause before committing the colony to a further expenditure in connection with similar enterprises. Looking at the state of their finances, and the many calls upon them in other directions, it was worthy of consideration whether the benefits that were likely to accrue, even if the colony were adequately represented, would pay us for the expenditure that would have to be incurred,—probably £5,000. He should be happy, however, to receive any proposition which the House might feel inclined to make on the subject. In order that there should be some question before the House, he would formally move, "That in the opinion of the House it is not desirable that the colony should be represented at the Melbourne Exhibition of 1888."

Mr. VENN said he should oppose the resolution to his utmost. Last year when the proposal was made to have the colony represented at the Adelaide Exhibition, he thought it was a mistake that we did not decide to put in an appearance there, and he thought it would be still more unfortunate, and a serious mistake, that Western Australia should be conspicuous by her absence from the coming Centennial Exhibition. This was not an ordinary affair, but he might say a national affair, organised to celebrate the centenary of the Australian continent; and he thought every colony in the group was called upon to put in an appearance. He hoped the House would vote a very respectable sum for the representation of this colony. He thought it would be a lasting disgrace if we kept away from this national gathering. The mere fact—the contemptible fact—of our not being represented at the Adelaide Exhibition prevented any member of that Council, or any colonist of Western Australia to visit that Exhibition, out of very shame at the colony not being represented there. He hoped the same thing would not occur at Melbourne, and that a strong effort would be made to have the colony worthily represented there next year.

Mr. MARMION agreed with all that had fallen from the hon. member for Wellington on this subject. Last year when the question of having the colony represented at Adelaide was before the House, he made a strong appeal to the patriotism of members, and did all he could to ensure our being represented on that occasion. His efforts, however, proved futile; but he hoped the House would not commit the same mistake in connection with the Centennial Exhibition to be held in Melbourne. He thought it was our duty to reciprocate the neighborly feeling which prompted the sister colonies to invite us to take part in these Exhibitions; and, although there were strong reasons why in his opinion we should have put in an appearance at the South Australian Exhibition, there were still stronger reasons in favor of our making a good show at Melbourne. This Centennial Exhibition marked an epoch in the history of our common country, and he thought it would be a lasting disgrace if we kept

aloof from this family gathering. He failed to see why we should require such a large sum as £5,000 to ensure an adequate representation. He thought £2,000 would be ample,—at any rate, it would be ample to provide upon the Supplementary Estimates for this year. Speaking as a West Australian and a public man, and as the representative of one of the most important constituencies, he submitted it was most desirable that we should be represented at this Exhibition.

MR. KEANE said he thoroughly endorsed what had fallen from the hon. member for Wellington and the hon. member for Fremantle. It appeared to him there seemed to be a desire on the part of some hon. members to keep this colony aloof from its neighbors, and to place a charmed circle around it, so that no one should be able to find out what the colony was capable of. The forthcoming Centennial Exhibition would afford an opportunity that had never happened before, or was likely to happen again during the present generation, for advertising the colony effectually; and he thought it would be a lamentable thing if we neglected such on opportunity. He hoped the House would vote at least £3,000 for this purpose, and that every effort would be made to have the colony properly represented.

MR. A. FORREST thought the colony certainly ought to put in an appearance at this national show. Not only would all the other colonies be represented, but every European country and many foreign countries would be represented, and he thought it would be a lasting shame if we alone of the Australian colonies were to refuse to join with the rest on this historical occasion. He thought we could not spend our money to better advantage than in trying to make a creditable appearance. He did not care whether it cost £3,000 or £5,000, so long as the colony was worthily represented, and made a real good show.

MR. RICHARDSON thought, whatever was done in the matter, nothing could be worse than to vote an insufficient sum to secure a creditable representation. It was all very well to say that we ought at this Exhibition to show the world what the colony is capable of; the danger to his mind was lest we should make an exhibition of ourselves. What he was afraid of was that instead of doing the colony good we might do it harm, by holding ourselves up to ridicule. It would be better to keep away altogether than to make a laughing-stock of ourselves, amongst the magnificent shows of our neighbors. If the House decided that the colony ought to be represented, it must be by no mean or niggardly vote. The thing must be done properly and done well, otherwise we should simply expose ourselves to the contempt of the world.

MR. LAYMAN thought they could do nothing worthy of the occasion with less than £5,000, or indeed do very much with less than £10,000: and he certainly did not think the colony was in a position to spend that sum upon this Exhibition. He should support the Colonial Secretary, who ought to know something about these things.

MR. SHENTON said the House had to consider, not whether it was desirable we should be represented at this Exhibition, but whether we could not spend the money more advantageously upon other objects; and, as the necessary funds would have to be provided on the Supplementary Estimates this session, he failed to see where the money was to come from. After all, our products were but few in number, timber and minerals being the principal ones; and it was already well-known in the other colonies what our resources consisted of. We were not strangers there now, as we used to be some years ago; and he doubted whether the gain to the colony would be worth the expenditure that would have to be incurred, even if we could afford it.

MR. HARPER thought there were a great many claims coming in from all parts of the colony that were more urgent than this. They were told there was an urgent demand for public works to provide employment for our unemployed, and that there was great depression all over the colony; and yet it was proposed to spend £5,000 in attempting to make a decent show at Melbourne. He thought that in the present circumstances of the colony the idea was a mad idea. If these Exhibitions proved such good advertisements to the colony, surely we ought to have seen some of the good results before now. We had exhibited at a great many

of them, and the advantages, if any, ought to be apparent by this time; but he doubted if anybody could point out to any solid gain that had accrued to the colony from these Exhibitions, and he thought all the benefits we were likely to gain by showing at Melbourne would be very small, compared with the benefits that would accrue to the colony from the expenditure of the same sum of money in the development of our own domestic resources.

MR. HENSMAN said, with regard to the general question of the value of Exhibitions, he was inclined to think they were over-rated, especially as regards the benefits to the community at large. He did not think we were now in a position to devote anything like a sufficient sum to make anything like a creditable show at this Melbourne Exhibition; and, unless we could be sure of making a show that would redound to the credit of the colony, it would be much better, in his opinion, to keep away altogether.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he was extremely loth and sorry not to be prepared to advocate, and strenuously advocate, our putting in an appearance at this Exhibition; and it was only because he knew of the difficulties in the way of producing a good effect at these shows that he did not feel inclined to urge the House to accept the invitation of their Victorian friends. On the present occasion the difficulties would be greater than usual, as the bulk of the exhibits which we sent to the Colonial and Indian Exhibition were left in England, ready to be deposited in the Imperial Institute. The matter, however, was entirely in the hands of the House. He should be only too glad if the House could see its way to appropriate an adequate sum for ensuring a creditable display. Whatever was done must be done during the present session. It would be too late to provide the necessary funds on the annual Estimates; and it was for the House to say whether it was prepared to vote a sufficient sum on the Supplementary Estimates for the current year.

The House divided upon the motion of the Colonial Secretary, with the following result:—

Ayes	14
Noes	5
Majority for ...	9

AYES.	NOES.
Sir T. C. Campbell, Bart.	Mr. Forrest
Mr. Congdon	Mr. Keane
Mr. Harper	Mr. Venn
Mr. Hensman	Hon. C. N. Warton
Mr. James	Mr. Marmion (*Teller.*)
Mr. Layman	
Mr. Loton	
Mr. McRae	
Mr. Parker	
Mr. Randell	
Mr. Richardson	
Mr. Scott	
Mr. Sholl	
Mr. Shenton (*Teller.*)	

PEARL SHELL FISHERY REGULATION ACTS AMENDMENT BILL.

This bill was further considered in committee.

Clause 3.—Officers who may endorse agreements with natives:

This clause was reverted to, with the object of considering the amendment submitted by Mr. RICHARDSON, who proposed that justices of the peace should be authorised to endorse these agreements, in addition to the following officers, which the bill provided for—the Inspector of Pearl Fisheries, the Resident Magistrate, and a Protector of Aborigines.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said that under the Aborigines Protection Act of last session, there were Native Protectors appointed all over the colony, all of them prominent settlers, who had very kindly accepted the appointment; and as these Native Protectors were authorised to endorse these contracts, besides the Resident Magistrate of the district, and the Inspector, he thought the matter might be left as it stood.

MR. SHOLL considered it highly necessary that justices of the peace also should have this power, so that their services might be available where there was not a Native Protector within reach,—which would often be the case in an extensive district like the North. There were very few Native Protectors, he believed, in the North district, where these natives were mostly employed, in the pearl fisheries. He thought it was a reflection upon the justices to deprive them of this power,

and he had no doubt in his own mind that it was done intentionally.

THE ATTORNEY GENERAL (Hon. C. N. Warton) thought there was some fairness in what the hon. member for the Gascoyne had said that, in large districts like the North, there might not be a sufficient number of Native Protectors; and it struck him, as a reasonable compromise, that (instead of adopting the amendment moved by Mr. Richardson) they should add to the list of officers authorised to witness these agreements "any fit and proper person appointed by the Resident Magistrate of the district wherein the contract is made." This was the same provision as was contained in the 19th section of the Aborigines Protection Act of last session, dealing with native labor generally; and he thought the same compromise might be adopted in the case of natives employed in the pearl fisheries.

MR. SHOLL was not prepared to accept the compromise, and for the life of him he failed to see why justices of the peace should be snubbed in this way. If the Government had no confidence in their justices, let them say so, and call upon them to resign, or strike them off the roll, and appoint officers whom they thought they could trust. These justices had the power to try a native for an offence, and yet the Government hesitated to trust them with power to witness an agreement with a native. As to leaving it to the Resident Magistrate to appoint whom he liked, some Resident Magistrates might appoint persons who were quite unsuitable. Why didn't the Government give them some reason for depriving justices of the peace of a power which hitherto had been entrusted to them?

MR. CONGDON said he was unable to accept the compromise offered by the Attorney General on behalf of the Government. For his own part he could not see why justices of the peace should not be considered "fit and proper persons" to witness these agreements, or why it should be sought to exclude them from the category of officers authorised to do so.

MR. LAYMAN thought, if the Government were to appoint one paid Native Protector at the North, instead of appointing honorary officers, the paid official would be able to attend to all these agreements. They could not expect the others to take much trouble about such matters, or to put themselves to any inconvenience. He thought the natives would receive more protection from one paid officer than from a hundred of these honorary protectors.

MR. SHOLL ridiculed the idea of one paid Native Protector attending to all these agreements in a vast district like that of the North.

MR. RANDELL said the Government had carefully abstained from giving any reason for excluding justices of the peace from the list; it was therefore left to conjecture, and it had struck him that it might be on the same principle as that which excluded certain magistrates, interested in the trade, from sitting on the licensing bench. One could easily understand why a person directly interested in the employment of natives might possibly be influenced, against his own judgment.

MR. McRAE said the same argument ought to apply to the justices trying these natives. There appeared to be no suspicion in the case of justices sitting in judgment upon a native, but when it came to witnessing an agreement the Government would not trust them. It did seem somewhat inconsistent.

MR. MARMION said that however unintentional it might be on the part of the Government, it undoubtedly was a slur upon the unpaid magistracy that the Government should deliberately and ostentatiously deprive them of this power, and place it in the hands of Native Protectors, and (as now proposed) of any person whom a Resident Magistrate might consider "fit and proper." He thought it was a very nasty slur, and uncalled for; and he would not sit in that House quietly and let the slur pass unchallenged.

The amendment introduced by Mr. RICHARDSON (adding justices of the peace to the list of authorised persons) was then put; and a division being called for by the Government, the numbers were—

Ayes	...	...	13
Noes	...	...	3
Majority for		...	10

AYES.	NOES.
Mr. Congdon	Mr. James
Mr. Forrest	Hon C. N. Warton
Mr. Harper	Hon. Sir M. Fraser (*Teller.*)
Mr. Keane	
Mr. Layman	
Mr. Loton	
Mr. Marmion	
Mr. McRae	
Mr. Randell	
Mr. Scott	
Mr. Sholl	
Mr. Venn	
Mr. Richardson (*Teller.*)	

Clause 3, as amended, agreed to.

Clause 4—That the ninth section of the said Act of 1873 shall be amended by the addition thereto of the words following:—

"And any person convicted of such of-"fence may be ordered by the convict-"ing justices, at his own expense, to "convey such native back to the place or "district to which such native belongs, "by such route as to the said justices "shall seem fit, or may be required by "the said justices, in addition to and not "in substitution for such fine or penalty, "to pay such further sum as to the said "justices shall seem fit for the purpose "of paying for such conveyance of such "native, and such further sum shall for "all purposes be and be deemed to be "added to the said fine or penalty, so as "to become a part thereof, notwith-"standing such fine or penalty, together "with the said sum, may exceed fifty "pounds:"

MR. RICHARDSON objected to this clause as it stood. It empowered a magistrate to make an employer pay the cost of sending back a native by any route which the magistrate might choose to decide,—it might be the most circuitous and expensive route, and the employer would have to pay the racket. He would propose, as an amendment, that natives who had to be returned to their district should be conveyed thence by the shortest practicable route, and that the cost of conveying them should not exceed sixpence per mile; also that a native need not be conveyed back, contrary to his wishes. He thought it would be very unjust legislation indeed that a magistrate should be allowed to put an employer to any expense he chose to do, and to send a native back whether he desired to go or not. Very often there was the strongest desire on the part of these natives, once they came down to the coast, to remain there, and it would be the greatest hardship—especially in the case of young natives—to send them back amongst the uncivilised natives in the bush, when they had acquired new ties and new habits. He could not imagine anything more cruel towards a native boy who had become accustomed to life on a settlement than, at the end of his engagement, to send him back *nolens volens* amongst the uncivilised natives. Yet, for yielding to what might be called the dictates of humanity, his employer, under this clause, would be liable to be mulcted in a heavy penalty if he did not pay that boy's expenses back to his own district. The hon. member moved an amendment, embodying his views.

THE ATTORNEY GENERAL (Hon. C. N. Warton) pointed out that the clause did not apply generally to employers of natives, but to those who had been convicted of an offence against a native servant, and who had neglected or refused to return the native, according to agreement. It was chiefly aimed at masters of vessels, who, having agreed to convey a native back at the close of his agreement, deliberately refused to do so. Power was already given to fine such a person, and the present clause simply sought to add to the severity of the penalty by making him also pay the cost of returning the native, by such route as the justices considered proper. Surely the hon. member himself was not now going to turn round and say that justices of the peace ought not to be trusted with this discretionary power.

MR. MARMION hardly thought any justice of the peace was likely to inflict unnecessary hardship upon a man, unless it was a very gross case indeed. No magistrate was likely to order a native to be conveyed back by the most expensive route, simply in order to add to the expense. He thought this might be left to the discretion of the justices. The subject, however, required some consideration; and he would move to report progress, and for leave to sit again another day.

Agreed to.

Progress reported.

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