

in consequence of the novelty of the measure, and of its great importance, a very laudable wish had been expressed by many hon. members to become further acquainted with the principles of the Bill, and he hoped, when he closed the few remarks which he had made, somebody would move the adjournment of the debate, in order that a further opportunity be afforded hon. members for perusing the Bill, and also that it might be placed in the hands of those practitioners who had not seats in that House. He would merely add, in formally moving the second reading of the Bill, that, in his opinion, if the House agreed with him in passing it, they would be helping in conferring an incalculable benefit as well upon the general public as upon those who would have to practise the law under it.

Mr. STONE moved the adjournment of the debate. Hon. members had only had the Bill—a most important one—in their hands for a few days, and the members of the legal profession outside the House had not had an opportunity of perusing its provisions. He would therefore move that the debate on the Bill be adjourned until Friday, 20th August.

Agreed to.

#### WINES, BEER, AND SPIRIT SALE (CONSOLIDATION) BILL.

Read a third time and passed.

The House adjourned at a quarter to nine o'clock, p.m.

### LEGISLATIVE COUNCIL,

*Monday, 16th August, 1880.*

Dog Nuisance in Country Districts—Warehouse Accommodation at Bunbury—Clergymen and their Obligations to the Laws—Jury Act, 1871, Amendment Bill: second reading—Main and Minor Roads—Railway Terminus at Fremantle—Message (No. 6)—Public Works Loan (1878): How disposed of—Registration System—Returns asked for by the House—Jury Act, 1871, Amendment Bill: in committee—Adjournment.

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

PRAYERS.

### THE DOG NUISANCE IN COUNTRY DISTRICTS.

In reply to Mr. VENN, THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the Government had taken no further steps to abate the dog nuisance in the country districts, adding that he thought the settlers themselves would act wisely if they were to manifest a little more spirit of self-reliance in these matters, instead of looking to the Government to do everything for them.

### WAREHOUSE ACCOMMODATION AT BUNBURY.

#### IN COMMITTEE.

Mr. VENN, in accordance with notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to place on the Estimates a sum of money sufficient to provide warehouse accommodation for merchandise landed and shipped from Bunbury." The hon. member said he had already pointed out to the House that this was a work of pressing necessity, and was then told by the Colonial Secretary that nothing could be done in the matter because no provision was made for it on the Estimates. That being the case, he thought the best thing that could be done, and what was justly due to the district, was that a sum should be placed on the Estimates for this object. At present they had no warehouse accommodation whatever at the port of Bunbury, and it had been suggested, with a view to save expense, that the old bonded store at the shore end of the jetty might be utilised for the purposes of a warehouse, which he believed could be done at very little cost. As this building, however, was in a somewhat dilapidated state, and it would be necessary to roof it afresh, or re-shingle it, it was just a question whether it would not be better to erect a small iron structure to serve for a warehouse at the end of the jetty. The coastal steamer always arrived at Bunbury after Customs hours, and the goods which she brought, whether in bond or out of bond, were left on the jetty, exposed to all sorts of weather. A watchman was placed over them, for whose services the consignees had to pay—sometimes as

much as the actual value of the goods themselves. In fact, there could be no doubt as to the absolute necessity of improved warehouse accommodation at this port, and he hoped the motion would meet with the support of hon. members on both sides of the House.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) pointed out that the hon. member had mentioned no particular sum as being sufficient for the purpose in view, and, if it was the opinion of the House that the address should be presented, it was left entirely in the hands of the Governor to place any sum he pleased on the Estimates. He thought that was wrong. His Excellency might or might not place any sum on the Estimates, or he might place a sum that would not be sufficient to carry out the work, and the House was as much in the dark as the Governor. He thought the hon. member ought to mention some specific sum. He regretted the hon. member had brought forward the matter at all, at present, for this was the wrong time to do so. The House was asked to-day to put a sum on the Estimates for a particular purpose, and next week when the Estimates came to be considered they would very likely ask to strike it off. It was simply making weathercocks of hon. members. He was fully aware that no place was deserving of more consideration as regards warehouse accommodation than Bunbury; at the same time, hon. members must bear in mind that in agreeing to this address they were asking the Governor to increase the expenditure for the ensuing year, whereas he thought their main object—and indeed the desire of hon. members—was that the strictest economy should be observed, and that retrenchment should be the order of the day.

MR. STEERE believed there was a great want of warehouse accommodation at Bunbury, especially when the steamers put in there, but he did not think there would be as much complaint as there was now if the Customs regulations were somewhat relaxed. He had been told by the importers of goods—he did not know, personally, whether it was correct or not—that they were not allowed to enter their merchandize at the Customs until the steamer had actually anchored, and that consequently the Collector would not

allow the goods to be taken away until the duty was paid, which, as the steamer generally arrived after office hours, could not be done until the following day. As the steamer usually arrived on Sunday the result was the goods were left exposed on the jetty until Monday, at ten o'clock, whereas if the entries were admitted and the duty paid prior to the arrival of the steamer, the consignees would be able to remove them the moment they were landed, or, at any rate, first thing on Monday morning. If the Customs regulations were relaxed to this extent, he believed the cause of the complaints now made would be considerably lessened, though not altogether removed.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said he had no intention of opposing the motion; at the same time, he would draw the attention of the House to the fact that the suggestion put forward by the hon. member for Swan might necessitate—he did not say that it would—an alteration of the Customs Ordinance. Possibly the inconvenience complained of might be met in some other way. He was free to confess that, if they had the money available for doing it, what the hon. member for the district suggested should be done ought to be done.

MR. CAREY said the necessity and importance of the work had been recognised by the Government years ago, and plans were prepared and tenders actually called to perform the work. But the plans—as was customary with those prepared by the Works Department—involved such an expenditure that the work was abandoned. He believed all that was required to be done could be carried out at a comparatively small expenditure of money, and he hoped the House would agree to the address.

MR. MARMION did not intend to oppose it, but he thought the House ought to put some limit upon the expenditure. It appeared to him the Customs regulations might be so relaxed as to meet the difficulty, and to admit of the goods being removed at the earliest possible opportunity, or placed in the bonded store until Customs opened on Monday.

MR. BROWN said the motion as it now stood would give the Government *carte blanche* to spend any sum they

pleased, which would be contrary to a wish expressed in that House on more than one occasion. If they adopted the address, it would not be incumbent on the Governor to place any sum on the Estimates for next year, and, there being no particular sum voted for the work, the Government might spend what they chose upon it.

MR. VENN thought £100 would amply suffice to cover the cost of providing the accommodation required. A simple and inexpensive building would answer every purpose.

MR. S. H. PARKER moved, "That the words 'not exceeding £100' be 'added to the resolution.'"

Agreed to, and the resolution, as amended, put and passed.

#### THE CLERGY AND THEIR OBLIGATIONS TO THE LAWS.

MR. CROWTHER, in accordance with notice, asked the Honorable the Colonial Secretary, "Whether, in the opinion of the law officers of the Crown, it is or 'is not optional with the several clergy—men whose stipends are partly paid out 'of the general revenue of the country 'to conform to or refuse to carry out the 'laws of the Colony as applied to the 'various religious denominations receiving public funds'? The hon. member said he was induced to ask the question in consequence of the result of a debate that recently took place in the Synod of the Church of England, on the subject of the attitude of the clergy of that Church with reference to the local Act legalising marriage with a deceased wife's sister. He thought that the outcome of that debate was very unsatisfactory, and a great deal of uneasiness existed in the public mind as to whether the clergy of the Anglican Church and the ministers of other religious denominations receiving State aid—for it was nothing else—could set the law of the country at defiance, when that law happened to be in opposition to what he might call their individual private feelings. This State aid was given, he might say, to induce the clergy to come out here, to minister to the religious wants of the inhabitants, and to perform those rites of the church which, as Christian people, their respective flocks expected to have performed, and among them the marriage rite.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) rose to a Point of Order. What the hon. member was saying was hardly necessary in explanation of his question. He thought the hon. member should rest content with putting the question, which he (the Colonial Secretary) was quite prepared to answer.

MR. CROWTHER: The hon. gentleman's thoughts are not my thoughts.

MR. SPEAKER said it was competent for any member putting a question to enter into such explanation as was necessary to render the question intelligible.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): The question as it stands is perfectly intelligible to me, and I am prepared to reply to it. It may perhaps not be intelligible to all minds, but to mine it is; and I do not see why the hon. member should be allowed to travel beyond the question.

MR. CROWTHER said the hon. gentleman's interruption was quite in keeping with previous efforts made on the Government benches to stifle discussion in that House, and to deprive the representatives of the people of that freedom of speech which he, for one, at any rate intended to assert. This Colony was contributing towards the stipends of the clergy of various denominations, when it could very ill afford to do so. Personally, he might say he was very sorry he had to contribute his share towards this State aid; and he thought it would be well that the public should know whether those ministers who were in receipt of this aid need not conform to the laws of the country as applied to their respective denominations. In the course of the debate that took place on this subject, in its relation to marriage with a deceased wife's sister, during the late sittings of the Synod at Perth, one of the clergy receiving State aid went so far as to say that not only would he not officiate at such a marriage, but that he would refuse Christian burial to any of his flock who went elsewhere and married his deceased wife's sister. The reverend gentleman who made that assertion relied, as to the position which he took up on the subject, on the well-known words in the old, old Book, which said of a man and wife that the twain should be one flesh. But the old Book said nothing

about that being the case when a man married a second time. Be that as it may, the clergyman referred to, who was partly maintained out of the public funds of the Colony, had the audacity to say that not only would he refuse to conform to the law of the Colony, but that he would treat those persons who were duly married in accordance with that law as he would treat heathens—he would refuse them Christian burial. In fact, this gentleman quietly set the laws enacted by that House at defiance, and boldly stated that he would not obey them unless ordered by his Bishop to do so, thus putting the Bishop of his church above the law of his country.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): Does the hon. member consider all this as explanatory of his question? I have already told him that it is quite intelligible to me, as it stands, without any further comment. The hon. member is making it a denominational question.

**MR. CROWTHER**: The hon. gentleman is not going to put me down, I assure him, until I have done.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): I submit that the hon. member is entirely out of order.

**MR. S. H. PARKER** moved the adjournment of the House.

**MR. CROWTHER**: I beg to second the motion.

**MR. SPEAKER**: The hon. gentleman cannot do that; he has already spoken once.

**MR. CAREY**: I beg to second the motion for the adjournment.

**MR. CROWTHER**: Now, then, I suppose I may go on. I simply wanted to state my reasons for asking the question standing in my name. It is not a denominational question at all. I merely say this: the Colony goes to an expense which it can ill afford, to provide out of the public funds towards the stipends of certain teachers of religion, who come out here in order to carry out their obligations as Christian ministers; yet one of these gentlemen—possibly acting in accordance with the dictates of his conscience—publicly announces that he considers a form of marriage legalised by an Act of this Council a “blasphemous mockery,” and that not only would he refuse to comply

with the law in that case made and provided, but that he would deny the rites of his Church to any member of his flock who contracted such a marriage anywhere else, and that when he died he would deny him Christian burial.

**MR. SPEAKER**: The question before the House is, that the House do now adjourn.

Motion put and negatived.

**MR. CROWTHER** then formally asked the Colonial Secretary, “Whether, in the opinion of the law officers of the Crown, it is or is not optional with the several clergymen whose stipends are partly paid out of the general revenue of the country to conform to, or refuse to carry out, the laws of the Colony?”

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): In reply to the hon. member’s question, I suppose I may, like him, be allowed to say a few words, beyond simply answering his question.

**MR. SPEAKER**: The same privilege is allowed to a minister of the Crown in replying to a question as is granted to a member in putting it. The question and the answer should be confined as far as possible to the point, with such explanation only as will render one and the other intelligible.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): I purpose availing myself of that privilege. A very simple question has been put, I admit, but other matters were introduced in connection with it which I cannot but consider were out of place, and I think it is a pity that they were introduced. What the hon. member has referred to was simply the individual opinion of what I may call a subaltern officer of the Church—if the expression may be used in that connection; and, considering the very great importance of the subject involved, I cannot but think it was wrong on the part of the hon. member to bring forward that expression of individual opinion in this House, on the present occasion. I think the hon. member’s action in the matter was ill-advised and ill-judged. The official reply to the hon. member’s question is that, in the opinion of the law officers of the Crown, it is obligatory upon the several clergymen whose stipends are partly paid out of the general revenue of

the country to conform to the laws of the Colony.

#### JURY ACT, 1871, AMENDMENT BILL.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) moved that the Jury Act, Amendment Bill, be now read a second time. When he made a similar motion before, the Bill was referred to a Select Committee, who had since reported to the House. [*Vide* page 97, *ante*.]

Motion for second reading agreed to.

Bill read a second time without discussion.

MR. MARMION moved that the Bill be considered in Committee after the Orders of the Day.

Agreed to.

#### MAIN AND MINOR ROADS.

MR. BROWN, pursuant to notice, moved, That a return be laid on the Table of the House, showing the respective number and situation of all "main" and "minor" roads in the Colony, within the meaning of "The District Roads Act, 1871." That Act, the hon. member said, provided that the roads of the Colony shall be divided into two classes, to be called respectively main and minor roads. The 25th clause enacted that "the Local Boards shall, within three months after the first election, recommend for the approval of the Governor what lines of road in their respective districts shall be classed as main and minor roads; and the Governor, after approval of such recommendation, shall cause the same to be publicly notified in the *Government Gazette*." It had been ascertained some few years ago that very few of the Local Boards, throughout the whole Colony, had taken any steps to carry out the provisions of that clause, and, the prescribed period of three months having elapsed after the first election, it was found that there were no means whatever whereby roads should be declared either main or minor roads. Finding that to be the case, the Government had introduced a Bill this Session to remedy this defect, providing that "it shall be lawful for the Governor, upon the application of the Local Board of any district, from time to time, to appoint what roads or parts of roads

"previously surveyed and marked out shall be main or minor roads, and every such appointment on the like application, from time to time to revoke; and every such appointment or revocation shall be published in the *Government Gazette*." As he had already said, he had reason to believe that, strictly speaking, we had very few, if any, "main" or "minor" roads, within the meaning of the original Act, in the Colony; and it would be observed that—according to the clause in the new Bill which he had just read—it would be necessary to have all our roads previously surveyed and marked out, before they could be declared main or minor roads within the meaning of the Act. This process of surveying and marking out would necessarily involve a great deal of time, labor, and expense, even with respect to the main roads. Possibly some years would elapse before that class of roads alone would be duly surveyed and mapped out, and a considerable time longer might elapse before such were declared and gazetted as such under the Act,—to say nothing about minor roads. It would be in the recollection of the House that the other evening a new clause was added to the Bill introduced this Session, as follows—and it was in view of this clause that he moved for the return now asked for: "All moneys which shall be received after the 1st day of January, 1881, by the Local Board of any district from the Public Treasury shall be carried to the account of a separate fund, to be called the 'Main Road Construction Fund,' and be expended by the Board in and upon the maintenance of main roads, or of some or any bridge or ferry within the district which shall be on such main road, or connect any part of the same with any other part thereof, whether within or without the district." Hon. members would observe that, according to the provisions of that clause, all moneys granted for road purposes out of the Treasury, after this year, were to be expended by the various Local Boards upon the "main roads" in their respective districts; but inasmuch as, strictly speaking, there were no main roads in the Colony (within the meaning of the Act), it would be obviously impossible to carry the clause into effect

until the provisions of the Act as to surveying, marking out, and so forth, had been complied with. This could not be done by next year, and if there was to be any money out of public funds expended on the roads at all, it would be necessary to make some provision to meet this difficulty. Possibly the Bill would have to be re-committed for this purpose, with a view to alter the wording of the clause, which enacted that no roads shall be declared to be main or minor roads unless "previously surveyed and marked out" as such. No doubt it was very desirable that all these roads should be surveyed and mapped out, but it was evident that this was a work that could not be done in a day, and, until it was done, no money could be legally expended out of the Public Treasury upon the main roads of the Colony. Possibly it would be necessary to strike out the words "previously surveyed and marked out," leaving it to the discretion of the Government and the Local Boards to declare what shall be "main" and what shall be "minor" roads within the meaning of the Bill. Unless this were done, he thought the better plan would be to adopt the suggestion thrown out the other day by the hon. member for the Swan, and, instead of providing by legislative enactment that all moneys received from the Public Treasury shall, after this year, be expended on the main roads, to merely pass a resolution to that effect (which would not have the full force of a legislative enactment), and leave the matter to the discretion of the Government to carry out the wishes of the House as to the appropriation of the money. At any rate, he now begged to move, as a step towards the attainment of the object in view, "That a Return be laid upon the Table of this House showing the number and situation of all 'Main and Minor' roads in the Colony, within the meaning of 'The District Roads Act, 1871.'"

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) intimated that he had already taken in hand the compilation of the return asked for by the hon. member. And, in doing so, and going into the records of the Survey Department, he had become fully convinced of the correctness of what the hon. member had just said—that, strictly

speaking, very few main or minor roads had been duly declared as such, and it was very doubtful how a great many of these roads really ought to be classed. He therefore concurred with the hon. member that it would be necessary to re-commit the Bill, for the purpose, in the first place, of validating all their past actions with reference to the classification of roads, and also to make further provision with respect to the future.

Motion agreed to.

#### FREMANTLE RAILWAY STATION.

MR. STEERE, in accordance with notice, moved, "That in the opinion of this Council no tenders ought to be invited for the construction of the railway terminus at Fremantle, until the plans and specifications and the estimated cost of such terminus shall have been laid on the Table of this House." He had been induced to bring forward this resolution in consequence of the very costly character of most of the public buildings lately erected by the Government in this Colony—very much more costly than was required, and altogether beyond our means to afford. He thought it would be well that before any more buildings of this character were erected the House should have an opportunity of forming some estimate of the probable cost of the building, in order, if possible, to place some check upon the extravagant tendencies of the Department entrusted with the duty of designing our public works and buildings.

MR. MARMION said he would oppose the motion unless it was made clear that the plans and specifications asked for would be laid on the Table during the present Session; otherwise, this very necessary work might have to be postponed for another year.

MR. SHENTON thought, unless the House adopted some such resolution as this, they would be having on the Eastern Railway a repetition of the costly stations erected on the Northern line, which—especially that at Northampton—were altogether beyond the means or the requirements of the Colony. When that House voted money for railway purposes, it was not for expenditure upon

costly stations, but with a view to provide the country with as cheap and economical a line of railway as possible.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said hon. members seemed to be somewhat inconsistent with respect to this matter. It was only the other day he was asked when tenders would be invited for the erection of this station—that it seemed very strange that none had yet been called—that the line was approaching completion—and that no time should be lost in inviting tenders for the work. Yet now it was asked that no tenders should be called for, and that nothing should be done in the matter by the Government, until the House had had an opportunity of examining the plans and specifications, and pronouncing an opinion thereon. Hon. members, before committing themselves to the motion for raising a loan for the construction of this line of railway, ought to have made themselves thoroughly acquainted with every detail of the work, and not come to the House at the last moment, and tell the Government—“Don’t do this; and don’t do that.” Was the carrying on of the work to be deferred until the wish of the hon. member for the Swan had been gratified, and other hon. members had had an opportunity of criticising the plans and specifications, with a view to render the proposed station a little less costly? He thought they could not make a greater mistake than to have a trumpety shanty for a railway terminus at the principal port of the Colony—a paltry building that would create a feeling of disgust in the mind of any stranger visiting our shores? They ought to try to avoid this, and create a favorable impression by presenting to the stranger’s gaze such buildings as would be a credit to the Colony. Looking at the great number of returns already asked for, and the indefinite period to which the Session might be prolonged if they went on like this,—it might be the end of the year before they brought their labors to a close, and before tenders could be invited—he thought the House should pause before committing itself to the resolution now before it.

MR. BROWN said the hon. gentleman seemed to think that, before the House

sanctioned the raising of a loan for the construction of this railway, it should have taken care to acquaint itself with every detail connected with the work, and that, now the money had been voted, the House should have nothing further to say on the subject, but leave the whole matter in the hands of the Government. [The COLONIAL SECRETARY: No, no.] The hon. gentleman said “No, no;” but he failed to see what other construction they could place upon his words. He (Mr. Brown) thought that a very undesirable principle had been introduced and acted upon hitherto with reference to these loans, namely, that when the House had assented to the money being raised, it seemed to waive—he would not say shirk—all further responsibility in the matter. He thought that House ought to be jointly responsible with the Government in watching the expenditure of the loan, and even go the extent contemplated in the resolution now before them, of expressing an opinion upon the character of the work to be carried out with the money. The hon. gentleman who was the leader of the Government in that House seemed to resent such a proposal, and thought that, since the Council voted the money, it should have nothing further to do with it. He was informed that in those colonies where they had Responsible Government—and he was sorry they had it—the Ministers had to come to the House for its approval as to many matters of detail connected with the expenditure out of loans; and surely there could be nothing *infra dig.* in the Government of this Colony submitting to the same process. As to the desirability of creating favorable impressions upon strangers visiting our shores, and dazzling their eyes with the grandeur of our public buildings, this Colony could not afford to indulge in such notions. What we wanted was a good, sound, substantial railway, economically constructed, and not handsome structures in the shape of stations to flaunt in the eyes of visitors. He trusted, if the Government were in a position to lay these plans and specifications on the Table of the House, they would do so; but if the House were satisfied that this could not be done, without incurring considerable delay, he was sure hon. members would not be so unreasonable as to insist upon their

production at any sacrifice. But he deprecated the tone assumed by the leader of the Government in connection with the matter.

MR. CAREY said if the Government were not in a position to lay the plans and specifications on the Table, all he could say was—they ought to be. The Colonial Secretary had endeavoured to lead the House to believe that the object of the mover of the resolution was that the invitation for tenders should be indefinitely postponed; but the hon. gentleman seemed to lose sight of the latter part of the resolution, which merely affirmed that no tenders should be invited "until the plans and specifications were laid before the House." Surely there was nothing unreasonable about that. He thought it would be a very good thing indeed that the plans and specifications, and also an estimate of the cost, of all public buildings should be laid on the Table of the House before the work was sanctioned. The result, he believed, would be that there would be a great saving of expenditure, while at the same time the Colony would have buildings quite good enough to meet all its requirements.

MR. CROWTHER said that for once in his life he was quite in accord with the hon. member who had last spoken—that if the plans and specifications asked for were not ready, they ought to be. They had been told weeks ago by His Excellency the Governor that this line would probably be open for traffic by the end of the year; and as there were only four more months now left, he (Mr. Crowther) thought it showed great remissness on the part of the Works Department, if the plans and specifications necessary for inviting tenders for the erection of the station at the terminus of the line were not yet ready. The hon. gentleman opposite (the Colonial Secretary) adduced as a reason why they should have a fine railway station at Fremantle the desirability of creating a favorable impression upon new arrivals landing at that port. But he thought the Government had altogether lost sight of this idea in connection with the new Customs building, recently provided for Fremantle, and which reminded him of nothing so much as of an ill-finished stable, with a shoemaker's stove in it to

keep out the damp. It might be that the members of that House did not possess much scientific knowledge; at the same time, he thought that, as the representatives of the people, they had a perfect right to see how the people's money was being spent. He had no wish to cast any undue reflections upon any public officer, or upon his department, but this he would say, and he defied contradiction when he said it—the country was not satisfied—on the contrary it was very dissatisfied—with the manner in which its money was being expended in some departments of the public service, and in none more so than in the department whose duty it was to prepare the plans and specifications now asked for.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said, however willing the Government was to afford the House every information which it wanted relating to the public departments, and to the work being done in those departments, at the same time—as that House had already assented to a loan being raised and expended for a specific purpose—he did not think it was competent for it to step in on every occasion, and interfere in matters of detail like this.

MR. S. H. PARKER: That's exactly the sort of speech I should expect from the hon. gentleman. I venture to say that no other person who may ever be raised to the position occupied by the hon. gentleman in this Council would be so impolitic, so unwise, as to make such an ill-judged admission to the House. It virtually amounts to this—that the hon. gentleman resents the impertinence of this House in seeking to interfere with the application of this money. In other words, he says to the representatives of the people in this Council: "I am lost in astonishment at your impertinence. You, the members of this House, actually dare to say that we, the Government of the Colony, are not to spend your money as we think proper, without you interfering with us!" I tell you, all you have to do is to vote the money, and leave the rest to us." That's what the hon. gentleman means to tell us,—the representatives of the people in this House. The hon. gentleman has been so much in the habit, for many years of his life, of having his own way, that it appears he

cannot brook any interference. He has been so little in the habit of associating with Englishmen—so little accustomed to Parliamentary practice, to the rules of debate in representative assemblies where freedom of speech is the privilege of every member,—he has been so much in the habit of having his own despotic way, that he is really astonished at the idea of the members of this House daring to interfere in matters of detail connected with the expenditure of the public funds. The hon. gentleman must have forgotten himself, and forgotten what is due to the representatives of the people having seats in this Council.

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): I would not have replied in any way to the observations that have just fallen from the hon. member for Perth, had I not observed that on more than one occasion the hon. member has chosen to indulge in personal attacks upon myself, which I think have been very unwarranted, unjustifiable, and certainly out of good taste. Beyond making this observation, it is not my intention to reply to the hon. member in any way.

**MR. S. H. PARKER**: The information vouchsafed by the hon. gentleman must, I am sure, have afforded great pleasure to the House.

**MR. HIGHAM** moved, as an amendment, "That all the words after the word 'That' be struck out, and the following words be inserted in lieu thereof:—'In the opinion of this Council it is highly desirable that the plans and specifications, with estimate of cost, of the Railway Terminus at Fremantle shall be laid upon the Table of this House at an early date, so that this Council may have an opportunity of expressing its opinion upon the matter before tenders are invited for the construction of such buildings.'" He thought this would meet the views of the hon. member for Swan, as well as the majority of other hon. members.

**MR. MARMION** supported the amendment, which was not so arbitrary as the original resolution, but which at the same time would answer every purpose.

The motion, as amended, was then agreed to, and ordered to be communicated to His Excellency the Governor.

#### MESSAGE (NO. 6) FROM HIS EXCELLENCY THE GOVERNOR.

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

"In reply to an Address from Your Honorable Council, dated the 2nd instant, the Governor forwards, herewith, a manuscript copy of correspondence between the inhabitants of the Southern Districts and the Government, on the subject of the Coastal Steam Service.

"The schedule of Imperial buildings in course of transfer from the Imperial to the Colonial Government, asked for by Resolution of Your Honorable House, will be furnished as soon as the transfer is completed.

"Government House, Perth, 16th August, 1880."

#### PUBLIC WORKS LOAN,—HOW DISPOSED OF.

**MR. S. H. PARKER**, in accordance with notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to lay upon the Table of this House a Return showing—

"A.—The net amount realised by the Public Works Loan Act, 1878.

"B.—The portion thereof expended in England, with items of expenditure.

"C.—The amount transmitted to the Colony.

"D.—The cost of transmission.

"E.—The amount and items of expenditure in the Colony on account of such Loan up to the 31st July last.

"F.—The balance to credit of the Colony at the West Australian and National Banks respectively on that date.

"G.—The rate of interest (if any) allowed on such deposits by the Banks.

"H.—The total amount of interest realised on Loan moneys.

"I.—The amount of Loan moneys advanced to and repayable by the General Revenue on the 31st July last."

The hon. member said this return was asked for in consequence of the return

furnished in response to the motion of the hon. member for Swan containing so little information that it was necessary to supplement it. Although the return now asked for appeared *prima facie* to entail a considerable amount of clerical labour and research, he believed in reality that the information sought could be furnished with very slight trouble and very little delay.

Motion agreed to.

#### REGISTRATION SYSTEM.—HOW VOTE FOR HAS BEEN EXPENDED.

MR. S. H. PARKER, in accordance with notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to lay upon the Table of this House a Return showing how the moneys expended in 1879 out of the vote for the improvement of the Registration System were spent and the person or persons employed on such work and the salaries paid." Hon. members would remember that a sum of £350 was placed on the Estimates for 1878 for improving the registration system in the Registrar of Deeds' Office, and he thought it would be satisfactory to the House to know how the money had been spent.

Motion agreed to.

#### RETURNS ASKED FOR BY THE HOUSE.

MR. S. H. PARKER, pursuant to notice, moved, "That an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to cause the various returns asked for by the House to be laid on the Table." Although, since the Session opened, the House had adopted several resolutions requesting to be furnished with returns, he had noticed that, as regards many of those returns, and especially those which he himself had moved for, as far back as July 27, none (with one or two exceptions) had yet been laid on the Table. Several of them he was perfectly certain might be prepared in the course of a few minutes, and he really believed that, as regards

the leader of the Government in that House, his sole idea was to thwart hon. members, as much as possible, in their desire to obtain information. He was fully persuaded—nay, he knew it as a positive fact—that many of these returns might have been furnished within a couple of days after they were called for, and yet no less than about three weeks had elapsed since the House had requested to have them laid on the Table. There was one return in particular,—that relating to the sum of £14,000 mentioned in the return showing the financial condition of the Colony—which surely would have taken very little time to furnish, as all the information required must be in the Treasury, and it would merely have to be copied out. Yet that return, moved for days ago, had only been laid on the Table that evening. His Excellency the Governor, in his Speech at the opening of Council, gave the sum total of the whole cost of the Northern Railway, and he (Mr. Parker) had asked for the details of that expenditure, which was surely a very reasonable demand. That information had not yet been furnished to the House, though it must be clear that if the total cost could be given it was only a question of copying out the various details constituting the sum total. The other evening the House was asked for a vote of £3,000 for the purpose of supplementing the vote for the conveyance of mails. A return relating to that service had been asked for as late back as the 27th July, but yet no information whatever on the subject had been vouchsafed to the House. It therefore appeared to him—and he said it advisedly—that the hon. gentleman actively resented the interference of members in thus daring to ask for information, his idea apparently being that they ought to take on trust whatever figures the hon. gentleman liked to lay before them. If, in the fulfilment of their duty to the public, they dared to ask for any more information than he chose to give them, the hon. gentleman resented their interference as an impertinence. The resolution now before the House was one which no one could take exception to, and his object in moving it was simply in order that the Governor might be made aware of the fact that these returns

had been asked for, and not been furnished—not been furnished simply because no trouble was taken to do so, no trouble whatever. The hon. gentleman stated just now that the Session was likely to be prolonged indefinitely in consequence of so many returns being moved for. That was not so. The Session would not be prolonged because members asked for these returns, but because the hon. gentleman himself did not use greater endeavors—he might say as regards some of them, no endeavors whatever—to furnish them to the House.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy) said the hon. member had commenced his personalities by remarking, with his usual assurance, that he was certain the production of these returns had been unnecessarily delayed. They all knew the hon. member possessed plenty of assurance, but he could only tell him that his assurance in this instance was perfectly unwarranted. As was customary with the hon. member, he had chosen to attack him (the Colonial Secretary) personally, and not the Government of which he was the representative in that House. He had again had an opportunity of indulging his taste for personalities, and resorting to his favorite style of argument—a style of argument which he (the Colonial Secretary) was glad to observe other hon. members carefully refrained from, and which, he trusted, for the sake of the dignity of the House, they would continue to refrain from. Personally, he should be sorry—nay, he should be ashamed—to adopt the same rôle as the hon. member had assumed for himself. [Mr. PARKER: Hear, hear.] The hon. member said “hear, hear.” Let him do so,—let him hear, and let other hon. members hear, too. He thought the way in which the hon. member had acted towards him—not as the leader of the Government benches in that House, but towards him personally, on every possible occasion—had been such as was wholly unwarranted. His shoulders, however, were broad enough to bear it. He cared nothing for the hon. member’s attacks. He had passed them over in silence, in contempt, until now; but he thought it was only right at last he should administer to him the castigation

which he so richly deserved. Having done so, he would now proceed to reply to one or two remarks which had fallen from the hon. member with reference to the preparation of these returns, and his own shortcomings with respect to them. The hon. member stated that the Colonial Secretary—for it was no one else—had purposely and designedly kept back these returns from the House. That was not the truth. That was not a fact.

MR. PARKER: I say it is a fact. I know it to be the truth, and can prove it.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): It is neither one nor the other. I have simply placed the matter in the hands of the heads of the Departments who have to furnish the returns asked for—the Auditor General, the Colonial Treasurer, and the Department of Public Works—and told them: “You have certain returns to get out, and they must be got out. There is nothing on the Estimates to provide remuneration for such services, but the work must be done, and you must do it the best way you can.” That, in effect, was what I told them, and yet the hon. member has the audacity to get on his legs, and ask this House to affirm what he stated—that I had designedly done all I could to obstruct the business of the House by withholding these returns. The other evening the hon. member asked for a certain return to be furnished as quickly as possible, and the very next day that return was laid on the Table. Was that delaying the business of the House? I would draw the attention of hon. members to the fact that the ordinary work connected with the public service has been very considerably interrupted by so many returns being asked for by this House, and if it is now deemed desirable that those returns should be furnished with greater promptitude, all I have to say is, other hands must be found to do the work, and a sum of money voted to pay them. It is not usual elsewhere to require the clerks to work after office hours in the preparation of Parliamentary returns, and give them no recompense, and I fail to see why they should be expected to do so here. If this House desires public servants to work at

night to provide returns for its information, it must provide for the payment of such services; and, unless that is done, I may honestly tell the hon. member that I certainly shall not give instructions to the clerks to work at these returns after office hours at night.

MR. BROWN said he would like to say a few words before the resolution was put to the House. If a division should be asked for on this question, he certainly should not look upon the result as a test of the feeling of the House as to whether or not the Colonial Secretary had intentionally kept back the returns asked for, or whether the hon. gentleman intentionally indignantly resented the impertinence of members in asking for those returns. But he should support the resolution for this reason—he thought it was desirable that these returns should be laid on the Table of the House. There could be no objection to a resolution affirming that desirability. No doubt there had been great delay in furnishing the returns; whether it had been necessary or unnecessary delay, he did not know. But this he did know,—it was desirable that the members of that House, and especially members from the country, should not be kept waiting about Perth, at great personal expense and sacrifice, while these returns were being prepared. If it was necessary that an extra staff should be employed, he thought it would be well that that extra staff should be employed. The great object should be to have them furnished within a reasonable time, but he thought the House had been kept waiting for an unreasonable time with regard to some of them. He did not know that he should have voted for the resolution of the hon. member for Perth, except for the admission made by the Colonial Secretary that he certainly would not instruct the clerks to work after hours in the preparation of the returns unless the House provided the money to pay them for doing so. In every commercial house, in banking establishments, as well as in the public service, there were periods of occasional pressure of business, involving a necessity for unusual exertions. This had frequently been the case in our own Government service on past occasions, and the

heads of departments as well as their subordinates worked early and late in the preparation of returns required by the Government; and he did not think that any of them imagined that, as a matter of right, they should be paid for the few hours extra service which they performed. He believed they had given their time willingly, without expectation of remuneration; and if he thought otherwise, he should think less of the public servants of this Colony than he did at the present time. He regretted to think that the Colonial Secretary considered that the work which that House asked from these officers was not Government work. He thought it was. At any rate, it was work which the Colony paid for, and which the Government, he considered, ought to see performed, with as little delay as possible.

MR. CROWTHER would support the motion, as he thought that House and the Government ought to stand on an equal footing with regard to extra work on the part of Government Officers. He knew for a fact that the Government often required the services of Public Officers after hours, without granting them any extra remuneration, and particularly so in the Telegraph Department. He was sorry to see an acrimonious tone introduced into the debate; but the returns the House wanted, and the returns it would have,—and the sooner the better.

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake): It strikes me that, owing to the form in which the question has been brought under the notice of the House, a little unnecessary heat has been imported into the debate. I cannot help thinking that if the object of the hon. member for Perth was merely to expedite the production of these returns he might have attained his object—I hope I may say it, in the interest of peace—by asking the Colonial Secretary when they would be ready. [MR. PARKER: I did ask him several evenings ago.] At all events, if the House accedes to the motion in its present form, it will, indirectly, be casting a vote of censure upon the Colonial Secretary. And if the object of the hon. member who brought it forward is merely to obtain these precious returns, perhaps he

will adopt my suggestion and withdraw his motion, having now brought the matter to the notice of the Council, and so to the notice of the Governor. I must say, I am sorry to observe the tone which the debate has taken. Innuendo has been resorted to—possibly not meant, but conveyed in language the meaning of which cannot be mistaken, and which, though not constituting a formal accusation, contained oblique reflections upon a member of the Government. The result has been that a little unseemly heat has been introduced into the debate. And although no person will charge hon. members who have spoken with any intention to affront, still I think that, in the heat of discussion, words that bear a construction which otherwise would not be put upon them have been spoken. And, perhaps, having now directed the attention of the House to the non-production of the returns, the hon. member will be content, and withdraw his motion.

**MR. PARKER:** But how will the Governor get to know about it?

**THE COLONIAL SECRETARY** (Hon. R. T. Goldsworthy): I may inform the hon. member that His Excellency is already in possession of the hon. member's motion, and the newspapers, doubtless, will supply him with the result of the debate upon it.

**MR. CAREY:** It appears to me that the motion is a very simple one, and one which the Government cannot possibly object to. Everybody knows that delays have taken place in the production of returns asked for by the House; but whether those delays have been unavoidable or intentional is best known to the Colonial Secretary himself. I must say that I also am somewhat sorry to see the tone introduced into the debate by members sitting on the Executive bench. As to personalities, I think it will be in the recollection of the House that at its last Session personalities of a most gross character were indulged in by the occupants of that bench, and by none more so than by the hon. gentleman who on this occasion has assumed the unwonted rôle of a peace-maker.

The question was then put—"That this Address be presented"—and, a

division being called for, there appeared:—

Ayes	...	13
Noes	...	5
Majority for		8

AYES.	NOES.
Mr. Brown	The Hon. G. W. Leake
Mr. Burt	The Hon. M. Fraser
Sir T. C. Campbell	Mr. Randall
Mr. Carey	Mr. Stone
Mr. Crowther	The Hon. R. T. Goldsworthy (Teller.)
Mr. Grant	
Mr. Hamersley	
Mr. Higham	
Mr. Marmion	
Mr. S. S. Parker	
Mr. Steere	
Mr. Venn	
Mr. S. H. Parker (Teller.)	

The resolution was therefore carried.

## JURY ACT, 1871, AMENDMENT BILL.

### IN COMMITTEE.

**THE ACTING ATTORNEY GENERAL** (Hon. G. W. Leake) said that in compliance with the recommendation of the Select Committee whose report was presented to the House the other day, he had drafted the new clauses which appeared in his name on the notice paper. The clauses, he might say, spoke for themselves, and as they had been carefully discussed by the Committee he did not think it would be worth while to take up the time of the House any further at the present stage of the Bill.

Clause 1.—"The radius of twenty-five miles of the place of attendance mentioned in the seventh section of 'The "Jury Act, 1871," shall be seventy-five miles, in all cases where a man shall be summoned to attend at Perth on any jury or inquisition."

**MR. BURT** moved "That the words "and sixteenth" be inserted between the words 'seventh' and 'section' in the third line."

Agreed to.

**THE ACTING ATTORNEY GENERAL** (Hon. G. W. Leake) moved, in accordance with the recommendations of the Select Committee, "That the word "seventy-five" in the fourth line be struck out, and the word 'thirty-five' be inserted in lieu thereof."

Agreed to.

Clause 1, as amended, put and passed.

Clause 2.—"In all cases where jurors shall be summoned for the trial of

"issues upon any criminal trial, the panel of jurors mentioned and referred to in the 16th and 17th sections of the said Act ['The Jury Act, 1871'] shall be divided into two parts, whereof one part, to the extent of one fourth of the whole, shall be taken from the Special Jurors' list as mentioned in the 27th section of the said Act; and the other part, to the extent of three fourths of the whole, shall be taken from the general list transcribed in the 'Jurors' Book,' as mentioned in the 14th section of the said Act."

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake), in pursuance of the recommendation embodied in the report of the Select Committee, moved that this clause be struck out, and the following inserted in its stead: "Section 18 of the said Act shall be repealed, and in lieu thereof be it enacted, that in order to secure the fair and impartial trial of offences upon any criminal trial for felony, the prosecutor or the prisoner may challenge six jurors, and no more, without cause assigned; and that when more prisoners than one are charged with felony, severances in peremptory challenges shall not be allowed to prisoners jointly charged as principals in the same degree, or jointly charged as accessories before, or accessories after the fact. Provided that nothing herein contained shall interfere with the right of challenge for cause shown as established by law or usage." He need hardly remind hon. members that there were four classes of persons who might be jointly arraigned for felony, but whose guilt might differ in degree; and, as there were different shades of guilt, so also was there a different class of evidence necessary to connect them. It would therefore be hardly fair, or consonant with the respect paid to the liberty of the subject, to restrict the four classes alike in their right of peremptory challenge. He thought it would be more consonant with the humane principle which actuated the administration of justice if, when the accused persons differed as to the degree of their guilt, they should be allowed to sever in their right of peremptory challenge, but that principals in the same degree should not have that right.

Mr. BURT understood that the Select Committee to which the Bill was referred had lost sight of one point upon which there appeared to have been a consensus of opinion on the occasion of the second reading of the Bill, namely, that the right of challenge should be extended to cases of misdemeanour as well as felony. He failed to see why a felon should have the right of peremptory challenge, and a misdemeanant not have the same right—why a man charged with some petty larceny should have this privilege, but a man charged with some very serious offence, involving very serious punishment, should be deprived of it, simply because the offence was not a felony. As to the distinction which the hon. the Attorney General had endeavoured to point out with regard to persons charged with various degrees of guilt, he (Mr. Burt) must say that he failed to recognise the distinction. He failed to see, himself, why the prohibition against severance in their challenge should not be extended to persons jointly charged, no matter in what degree. With the view of extending the privilege of peremptory challenge to cases of misdemeanour as well as of felony, and also to plaintiffs and defendants in civil causes he begged to move as an amendment, "That clause 2 be struck out, and the following be inserted in lieu thereof:—"  
"Section 18 of the said Act is hereby repealed, and in lieu thereof be it enacted that upon any criminal trial both the prosecutor and the prisoner (and upon any trial of a civil cause by a common jury either party) may challenge six jurors and no more without cause assigned; but when two or more prisoners are jointly indicted they shall not sever in such peremptory challenge. Provided that nothing herein contained shall interfere with the right of challenge for cause shown as established by law or usage."

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said the amendment sought to be introduced would render the Bill almost unworkable. He thought if the hon. member putting it forward would reflect, he would see that the proposed right of challenge in civil cases was in reality an absurdity. There were two classes of jurors for the

trial of civil causes—special and common. The number of special jurors struck was twenty, from which number each side had the right to strike out two names, and sixteen jurors were thus retained. Of these, twelve were sworn to try the case, either party having the right of challenge for cause. But it was different in the case of common jurors, when panels of twenty were returned in each case, so that in the event of there being five cases it would be competent for them to have a hundred jurors in attendance. When the jurors came to be sworn, it was competent for each side to challenge for cause shown, as established by law; but it appeared to him absurd, and introducing a new principle altogether, that each side should also have the right of peremptory challenge, without cause being assigned. As to the proposal to extend the principle of peremptory challenge to misdemeanour, that also was introducing an entirely novel principle into the Bill, and, considering the very short time he had had to investigate it, he hoped the hon. member would not press his amendment upon the Committee that evening. At any rate, he must protest against there being any such thing as a necessity for granting the right of challenging without cause in civil actions tried before a common jury. If so novel a principle were adopted, all he could say was, it would put suitors to an enormous expense.

MR. BURT said that at present suitors were not only put to expense but were subject to miscarriage of justice, and if the House was of opinion that parties involved in a civil action should have the privilege contemplated in the amendment, he failed to see why the hon. gentleman should have any objection to it. He had no wish, however, to press his amendment upon the Committee that evening.

MR. STONE said the amendments proposed by the hon. member for the Murray imported a most important principle into the Bill,—of sufficient importance, he thought, to warrant the Committee in reporting Progress at this stage of the discussion.

MR. BROWN concurred. It would be hardly fair to the non-professional members to ask them to decide a question of this importance off-hand. On the face

of it, he felt bound to say that it did seem strange that misdemeanants should be deprived of a privilege extended to felons, and he failed to see why the right of challenge accorded in criminal cases should not be granted in civil actions.

MR. MARMION, in view of the great importance of the principle involved, moved, "That Progress be reported, and 'leave given to sit again on the 28th 'August.'"

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said he would be glad to agree to the motion. The principle sought to be introduced was as novel as it was important.

MR. BURT said he did not intend it to apply to special juries, in which cases the parties had the right of challenge before they came into Court. But he would ask, why should there be the right to challenge (without cause) special jurors—the men of superior intelligence whom it was proposed to introduce into the common jury box for the purpose of securing a more satisfactory administration of justice—why should the right of challenge be allowed in the case of these superior beings when the same right was not extended to the inferior class of jurors?

THE ACTING ATTORNEY GENERAL (Hon. G. W. Leake) said if the hon. member proposed to introduce the same principle as regards common juries as obtained with regard to special juries, namely, that of allowing the panel to be drawn in the first instance, and then have a certain number of names struck off by the parties before going into Court, he should be glad to support it.

Progress was then reported.

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