

LEGISLATIVE COUNCIL,

Monday, 8th July, 1878.

Report of Commission on Departmental Expenditure: in committee—House allowance, Resident Magistrate, Roebourne—Harbor Improvements: Report of Sir John Coode; in committee—Report on Department of Land Titles—Customs Ordinance, 1860, Amendment Bill, 1878: third reading—Incorporation W.A. Bank Shareholders Bill: third reading—District Roads Boards Audit Act, 1877, Amendment Bill, 1878: in committee—Colonial Passengers Amendment Ordinance, 1868, Explanation Bill, 1878: in committee—Adjournment.

THE SPEAKER took the Chair at 7 o'clock, p.m.

PRAYERS.

REPORT OF COMMISSION ON DEPARTMENTAL EXPENDITURE.

IN COMMITTEE.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) moved the following resolution: "That this Council concurs in the report of the Commission appointed to inquire into the administration of certain departments in the Public Service, as minuted by His Excellency the Governor, and requests that His Excellency will take such steps as appear to him desirable to give effect to it, so far as may be deemed consistent with an economical regard for the public service." He said he need not enter at any length into an explanation of the report, which had been in the hands of hon. members for some days. The Commission had endeavored to place before the House all the information they could obtain relative to the working of the various departments into whose administration they were instructed to inquire; and he thought hon. members, after reading the report, would agree that the Commission had gone very carefully to work, and that some of the suggestions which they had thrown out would prove of value in the future.

MR. BROWN said there could be only one feeling among hon. members with regard to the manner in which the Commission had discharged the duty imposed upon them, and that feeling was one of entire satisfaction. He thought the House would agree with most of the recommendations embodied in the report, and would be pleased to see them acted upon. With regard to the dietary scale of native prisoners at Rottneest, he was

inclined to adopt the views expressed by Dr. Barnett, and endorsed by His Excellency the Governor, rather than the opposite views entertained by the Colonial Surgeon, and he hoped Dr. Barnett's recommendation would be carried out.

Resolution agreed to, *nem. con.*

HOUSE ALLOWANCE. RESIDENT MAGISTRATE, ROEBOURNE.

IN COMMITTEE.

MR. BROWN moved the following resolution: That this Council approves of the action of the Government in making an allowance of £50 per annum to the Government Resident at Roebourne, in lieu of quarters.

Resolution agreed to, without opposition.

SIR JOHN COODE'S REPORT ON FREMANTLE HARBOR.

IN COMMITTEE.

MR. SHENTON, pursuant to notice, moved, That the report of Sir John Coode, C.E., on harbor improvements at Fremantle, be now taken into consideration. The hon. member said that in expressing his reasons for moving this resolution he could not do better than quote the concluding words of the report itself, which Sir John Coode said he had endeavored to make as exhaustive as possible "in order that the Colonial Government may be in a position to come to a final decision upon this important and long-agitated question, apprehending, as he did, that the interests of the Colony at large required that it should be settled as early as may be practicable." He (Mr. Shenton) thought all hon. members must have experienced a certain sense of disappointment on reading Sir John Coode's valuable and exhaustive report—disappointment, because that eminent authority had arrived at the conclusion that no suitable harbor improvements at the port of Fremantle could be carried out at a cost within the means of the Colony to undertake at present. Hon. members would observe that the reason of this, as mentioned in the report, was the fact that "the force of the littoral currents running parallel to the coast line rendered any solid structure, projected from the shore in the locality

of the river's debouchure into the sea, however ingeniously planned, unsuitable for the purpose of protection, inasmuch as it would inevitably arrest the sand in its passage southward, and thus cause an accumulation on the weather side which, after a time, would travel around the end of the structure, and result in shoaling the sheltered area under its lee." Sir John Coode was of opinion that, in the absence of a proper scouring agency, similar results might be confidently expected to follow from the projection of any solid barrier from the coast line on either side of the river. Any effectual improvements in this direction, and in this locality might therefore be discarded. Nor did the report afford any encouragement to adopt any steps for improving the river with a view to the formation of a deep-water channel from the sea, Sir John Coode feeling assured that any works of this character would only lead to failure. This being the case, and the cost of either of the alternative designs proposed by Sir John being altogether beyond our present means—the lowest estimate being £242,000, and the other estimate being £638,000—the Colony must direct its attention elsewhere than Gage's Roads in order to secure greater protection to the shipping, and greater facilities for loading and discharging cargo than are afforded in that roadstead. It appeared to him that these conditions would be best secured at Owen's Anchorage. One of the main objections which had been raised to this anchorage was the character of the entrances into it, which, it was contended by those opposed to any improvements in this locality, would preclude the admission into the anchorage of vessels of very large tonnage. With reference to this objection he had taken some pains to ascertain what were the real facts of the case, and how far the passages to the anchorage interposed any obstacle to the safe entrance of vessels of the tonnage which usually visit our shores. From a return courteously placed at his disposal by the Harbor Master at Fremantle (Mr. Forsyth), showing the tonnage of the various vessels which had visited that port during the years 1875-6 and 7, he found that throughout the whole of that period there were only six vessels—two in each year—which, owing to their draught,

would not have been able to have entered the anchorage, in ordinary weather, without any extraneous assistance in the shape of a steam tug. These vessels were the *Charlotte Padbury* and the *Bertha Marian*, in 1875; the *Jumna* and the *Helena Mena*, in 1876; and *H.M.S. Nymph* and the *Ellora* in 1877. Of course the difficulties of entering the anchorage through either of the two channels leading to it would be to a very great extent obviated if a steam tug were available—as he hoped would be the case, in the course of a short space of time; for with a tug a vessel need not be dependent on the wind, and would be in a position to avail itself of the state of the tide so as to gain admission into the anchorage at the most favorable moment. It would thus be seen that the objections raised against Owen's Anchorage were not so great, after all, and were in fact not of that character which ought to be allowed to condemn that locality as a safe, suitable, and commodious anchorage. At dead low tide, the water in the outer channel was 17ft., so that vessels of that draught—and very few of heavier draught ever visited our shores—could, by watching their opportunity, and with the assistance of a tug, make the entrance into the anchorage. Three years ago, vessels drawing over 16ft. had to lighten their cargo before they could enter Port Adelaide, and, by the means of lighters, this could be done in the case of vessels entering Owen's anchorage. He found, on inquiry, that a jetty in that anchorage, of the same length as the present jetty at Fremantle, would accommodate vessels of the heaviest draught. But what he would prefer, and what he would advocate, was the construction of a circular quay, so as to enable vessels to go alongside and afford facilities for the loading and discharging of cargo in all seasons. He would not propose the erection there of any very expensive or substantial warehouses for the storage of cargo, but simply sheds for the temporary accommodation of goods, which would be conveyed by rail to Fremantle, and there bonded. The adoption of Owen's Anchorage would therefore in no way interfere with the present trade and commerce of Fremantle, while at the same time it would afford great facilities and protection to the shipping, and

materially benefit not only the interests of the mercantile community, but, indirectly, the interests of the Colony at large. This appeared to him to be the only available plan for overcoming the present difficulties with regard to shipping matters at Fremantle, seeing that the designs recommended by Sir John Coode for improving that harbor were of a character and cost which the Colony would not be justified in undertaking at present. He would therefore move—“That this House, having taken into consideration Sir John Coode’s report upon the question of harbor improvements at Fremantle, is forced to the conclusion that the two schemes proposed by him are beyond the present means of the Colony; but considers that great facilities could be given to the loading and unloading of ships, if wharfage accommodation could be provided at Owen’s Anchorage, such wharf being connected with the “A” store at Fremantle by a line of railway: and this House prays that His Excellency will be pleased to have the necessary plans and specifications made out, so that they can be laid before this House at its next Session.”

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) pointed out—and the hon. gentleman said he did so with a feeling of satisfaction, he himself having been on the Committee—that, according to Sir John Coode’s report, the most promising of all the designs submitted for his consideration was that recommended by a Select Committee of that House, in 1875, and that it was by a modification of the principle embodied in that design that future harbor accommodation at Fremantle must be provided.

MR. MARMION expressed his disappointment at the purport of the resolution put forward by the hon. member for Toodyay. When he read the notice of motion standing in the hon. member’s name, he thought the House would have been asked to consider Sir John Coode’s report on its merits, and that no counter scheme would have been proposed in opposition to that put forward by so eminent an authority. Hon. members were aware that a good deal of money had been spent in obtaining the opinions of other “competent engineers” with refer-

ence to this vexed question of harbor improvements; but the House, deeming it advisable, before committing the Colony to any scheme involving such important considerations, came to the conclusion that the question should be finally referred to the most eminent marine engineer of the day, with a view to its being definitively disposed of. The subject was accordingly remitted to Sir John Coode, whose opinions on the question—whatever they might be—it was felt, must set the matter at rest, once and for ever. But now that they were in possession of those opinions, it was proposed to shelve them altogether in favor of another scheme. He deprecated any further tinkering with the question, and thought the House should be satisfied with the decision of as eminent an authority as Sir John Coode, as conveyed in his report—a report which, apart from its theoretical value, showed a wonderful grasp not only of the local physical conditions of our roadstead but of the nature of the present accommodation and our peculiar requirements—and make up our mind to adopt his suggestion to carry out the less expensive of the two schemes which he had recommended for adoption, or,—as a temporary expedient, and on the ground of economy in first cost,—extend the present jetty accommodation in Gage’s Roads. The hon. member for Toodyay recommended that we should abandon the present roadstead in favor of Owen’s Anchorage, and altogether put out of the question any attempt to improve the river accommodation. No doubt, as to the latter view, the hon. member was supported by Sir John Coode’s opinion, who deprecated any steps being taken to improve the river with a view to the formation of a deep-water channel from the sea; but as to the proposal to convert Owen’s Anchorage into a harbor for Fremantle, he hoped the House would pause before affirming the desirability of incurring any further expenditure in experimental projects of this character. He (Mr. Marmion) was free to confess that the less costly of the two schemes put forward by Sir John Coode involved an expenditure which the Colony, in its present financial condition, would hardly be warranted in undertaking. But hon. members should bear in mind, that,—as

had been pointed out in the columns of (he believed) the *Herald* newspaper—this expenditure would extend over a period of some years, reducing the annual charge upon the Colony to, say £50,000 for five years. Nearly the whole of this money would be expended in the Colony, and would tend materially to swell the public revenue, affording employment as it would to a great number of people. Nor would the proposed work be unproductive of a considerable amount of revenue. He estimated that before it was completed, it would afford berthage and accommodation to the extent of about 30,000 tons annually. Now the present rate of lighterage was 5s. per ton in summer, and 6s. in winter, to which might be added 1s. 6d. per ton for wharfage,—averaging, say, 5s. all the year round. Thirty thousand tons at 5s. would yield an annual revenue of £7,500, which would fully cover one-half the amount of the interest on the whole sum expended in the construction of the work, which Sir John Coode estimated at £242,000. In addition to this source of revenue, a further income might be derived from a slight increase of harbor dues, which the owners of vessels would be glad to pay for increased accommodation and protection. It would thus be seen that there was nothing so very chimerical about the scheme after all, and, were the Colony in a financial position to undertake it at the present moment, he would not have the slightest hesitation in recommending and supporting its adoption. With regard to Owen's Anchorage, hon. members would observe that Sir John Coode referred to that locality in his report, and, practically, vetoed it completely as a site for any proposed harbor works. After a careful consideration of the evidence given by Lieut. Archdeacon before a Select Committee of the House in 1874, Sir John arrived at the conclusion that nothing short of insuperable physical difficulties would, in his view, warrant the undertaking of harbor works in that locality, or elsewhere than at, or immediately adjacent to, the Swan River entrance. Surely, in the face of this very decided and emphatic expression of opinion, the House was not prepared to accept the proposition put forward by the hon. member for Toodyay in direct opposition

to Sir John Coode's views on the subject. The hon. member for Toodyay had not entered into the relative advantages of Owen's Anchorage and Gage's Roads, or shown that the former possessed any great superiority over the latter, as an anchorage in all seasons. He (Mr. Marmion) knew something about both localities, and, in the winter season, when vessels could not discharge in Gage's Roads, it was almost impossible for them to discharge in Owen's Anchorage, though he admitted they were much safer there than in the roadstead, as there would not be so much strain on their cable. But almost the same difficulties presented themselves with respect to loading and discharging in both localities; and the same difficulties which were now experienced in lightering ships in Owen's Anchorage, in heavy weather, would also be experienced if they had a pier or jetty there, unless the pier or jetty were protected by some solid structure, and if it came to the construction of a solid structure there, why not at Gage's Roads? The great objection—the insuperable objection, he might say—to Owen's Anchorage was the character of the entrances to it, which would render its adoption as a harbor of refuge impracticable in a gale of wind. And yet this was just what was wanted. In view of these circumstances, and bearing in mind that the motion for the consideration of which the House had resolved itself into a Committee was the consideration of Sir John Coode's report, he would suggest to the hon. member for Toodyay the advisability of withdrawing his resolution, for the present at any rate. If he (Mr. Marmion) thought there was any prospect of his securing anything like a majority of votes in favor of the proposal, he would readily close his remarks by moving a resolution in favor of the adoption of Sir John Coode's alternative design, and on a future occasion would endeavor to show the means by which the money necessary for carrying it out should be raised. But he was afraid hon. members at the present time were slightly alarmed at the financial condition of the Colony, and that such a proposition would not meet with general support; it would therefore be useless on his part to introduce it. He could not,

however, support the resolution before the Committee.

MR. BURT objected to the resolution because it, in a great measure, pledged the House to an expression of opinion that the construction of harbor works in the locality referred to (Owen's Anchorage) was desirable, and that such works should be commenced at no distant date, for the resolution contemplated that immediate steps should be taken by His Excellency to have the necessary plans and specifications made out, in view of the House affirming the hon. member's motion. Before the House arrived at that conclusion, he thought it very desirable and necessary that it should have some further report upon this particular locality. Hon. members smiled, but he was sure the House had not yet done with reports on harbor improvements at Fremantle. He was informed that the South Bay was already silting up, and that the beach in that locality appeared to be making rapidly seawards. This appeared to him to be a matter of paramount importance as affecting the permanent utility of any harbor works which might be constructed at Fremantle, or in its vicinity. He would move as an amendment upon the resolution before the Committee—"That 'this House, while acknowledging the 'able and careful treatment of the 'question of Harbor Improvements at 'the port of Fremantle in the report of 'Sir John Coode, now under consideration, is of opinion, that it is undesirable, in the present financial position 'of the Colony, to undertake the construction of any of the works put forward by him.'"

THE ATTORNEY GENERAL (Hon. H. H. Hocking) said that, so far as he could see, the amendment did not in the least clash with the resolution. The former started with the same proposition, that in the present financial condition of the Colony it was not in a position to undertake either of the designs recommended by Sir John Coode. But, while affirming that to its fullest extent, he (the Attorney General) did not at all see that it militated in any way against the motion put forward by the hon. member for Toodyay. While the question of harbor improvements at Fremantle might be regarded as shelved for many

years to come, he did not see why they should not in the mean time endeavor to afford some greater facilities and protection for the shipping; and, so far as he could see, the resolution submitted by the hon. member for Toodyay was one of that interim character. The hon. member recognised, as that House must recognise, the impossibility, in the present financial condition of the Colony, of adopting any scheme of harbor works involving an expenditure of a quarter of a million of money, however much the hon. member for Fremantle, by an adroit manipulation of figures, might endeavor to show that the expenditure would in reality be reproductive. The main objection entertained against Owen's Anchorage appeared to be the narrowness and the shallowness of the passages leading to the anchorage; but he thought the hon. member for Toodyay had pretty well shown that out of every hundred ships that came to Fremantle ninety-nine could go into Owen's Anchorage, especially if they had the aid of what the Government hoped to get—a steam tug. Of the many schemes he had ever heard put forward for providing—not a harbor at Fremantle, for nobody pretended it would do that, but for affording increased facilities and protection for the shipping, pending such time as the Colony was in a position to undertake works of a more comprehensive character—he thought the scheme put forward by the hon. member for Toodyay was the one most worthy of consideration, and that was all which the hon. member asked for it.

MR. CROWTHER said he had an amendment to propose on the amendment already before the Committee. That amendment, as well as the original resolution, affirmed a proposition which no one would venture to deny, namely, that the Colony was not in a position to provide what it required in the way of harbor improvements. But there were those outside the Colony who were perfectly willing and ready to give us what we wanted. A scheme had already been submitted to the Government by some capitalists in South Australia, who, on certain conditions, proposed to provide the necessary accommodation for shipping at Owen's Anchorage, and to connect that locality with Fremantle by

means of a railway. The cost of carrying out this scheme was estimated in round numbers at £80,000, and the capitalists referred to were prepared to embark this sum in the undertaking. Of course both the railway and the harbor works would have to be carried out to the satisfaction of the Government, and in accordance with plans and specifications approved by the Government; and these conditions the projectors, he believed, were quite prepared to accede to. One great advantage of this scheme was that, any time after ten years, the Government, if they thought it would be to their advantage to do so, would be permitted to take over the works into their own hands, at a valuation to be fixed by arbitration. The concessions which the promoters of the scheme asked for, in return for their outlay were, it appeared to him, very fair and reasonable, namely, a sufficient area of land at Owen's Anchorage to erect the necessary buildings thereon, and the ground for the railway terminus at Fremantle, together with the right to charge and collect all wharfage dues at the rate of 7s. 6d. per ton. This, the projectors estimated would yield them a return equivalent to six per cent. upon the capital invested. All the Government would lose by granting this concession and securing what the Colony had been crying out for, for many years past—improved harbor accommodation—was the small revenue at present derived from wharfage dues at Fremantle. The proposal it appeared to him was one well worthy the attention of the House and of the Government, and in commending it to the favorable consideration of hon. members he would say no more at present beyond asking them to affirm the following amendment: "That an humble address be presented to His Excellency the Governor, praying that he will be pleased to appoint a special commission to inquire into and report upon the scheme for harbor works at Owen's Anchorage submitted to the Government by certain capitalists of South Australia, with power to call for persons and papers; Lloyd's Agent being one of the commission."

MR. HAMERSLEY said he had given to the various resolutions proposed a fair and impartial consideration, and he must

say that he placed no great value upon the first one, which was in direct opposition to the opinion of Sir John Coode, whose report he regarded as a most valuable one, and one from which the Council would not be justified in departing. What Sir John Coode thought of Owen's Anchorage was to be gathered from the following paragraph in his report: "Having regard to the evidence given by Lieut. Archdeacon before the Select Committee of the Legislative Council in 1874, to the effect that the best entrance into Owen's Anchorage is available only for vessels of 16 feet draught, and that the channel into Cockburn Sound would be impracticable in a gale of wind on account of the 5 fathom bank extending to Rottneest Island, and also bearing in mind the positions of Fremantle and Perth, the two chief towns of the Colony, nothing short of insuperable physical difficulties would, in my view, warrant the undertaking of Harbor Works elsewhere than at, or immediately adjacent to, the Swan River entrance; and I may say that the difficulties in this locality, great as they undoubtedly are, resolve themselves into questions of relative accommodation and cost of works." From this it was evident that Sir John Coode did not care very much for Owen's Anchorage, and, in the face of the opinion of so eminent an authority, he thought the Council would do wrong in undertaking any harbor works in that locality. While on this subject he might say that, in his opinion, the railway works which they were about to undertake would not, unless supported (so to say) by harbor works at Fremantle, be so advantageous as was generally supposed, and in his opinion they ought to combine the two undertakings, and carry them out concurrently. He thought that the less expensive scheme recommended by Sir John Coode might be very well undertaken by the Colony. In order to give hon. members an opportunity of carefully considering this matter he would ask the Committee to report progress and request leave to sit again on a future day. To undertake any harbor works at Owen's Anchorage in direct opposition to the opinion expressed by the very authority to whom the question was referred,

would not only be a very reckless proceeding, but a waste of public money, which he, for one, would not sanction.

MR. SHENTON—referring to what had fallen from the hon. member for Fremantle (Mr. Marmion), to the effect that Owen's Anchorage presented no superior advantages to Gage's Roads as a harbor—pointed out that while ships were unable to discharge in the Roads, ordinary ship's boats could come and go at Owen's Anchorage.

Progress to be reported, and leave given to sit again on Wednesday.

REPORT ON THE DEPARTMENT OF LAND TITLES FOR 1877.

MR. CAREY, in accordance with notice, drew the attention of the House to the report on the Department of Land Titles for the year 1877, and the return from the same office showing the dates of application and issuing of certificates, as called for on the 14th June. The hon. member said: Knowing as I do that grave errors have arisen, and great delays occur, in the issuing of certificates in connection with this department, I have thought it my duty to call the attention of the House, and of the Government, to the matter. I may state at the outset that I disclaim all personal feeling in the matter, for, so far as the Commissioner is concerned, he has invariably rendered me every possible information within his power, on the very few occasions I have had dealings with his office. I would first draw the attention of the House to the report on the department for the past year, and I do so in order to show that no excuse can be offered, on the score of overwork, to account for the numerous errors and delays. Three officers, I believe, are attached to the office—the Commissioner, the Registrar, and a clerk, probably a messenger also. It appears that these gentlemen in the course of last year dealt with 108 applications, of which only 77 required advertising, and five were rejected or withdrawn. In the previous year (1876), the total number of applications dealt with was 81, of which the number requiring advertisement was 63, and the number of rejected applications, 5. From these figures I think it will be readily admitted that the delays which occur in dealing with applications are not fairly attributable to

overwork, and that the errors that occur must arise from insufficient examination rather than pressure of business. According to the returns laid on the Table of the House, it appears that very considerable delay occurred in dealing with twenty-three applications, that one application made so far back as July last has not yet been issued; another in September, and another in October, still remain unsettled. But the delays are nothing as compared with the grave errors connected with the department. I will first mention a case that came under my own knowledge, and which I think fully justifies the charge of "grave errors"—though the hon. gentleman opposite has taken exception to these words. Fifteen years ago, a man named Davis settled on the Blackwood—

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): I beg to ask whether the hon. member is in order. His motion is to draw the attention of the House and the Government to the report of the Commissioner. This implies that the Government will reply, and I suppose that according to the nature of that reply the hon. gentleman will frame his resolution.

MR. CAREY: I am merely drawing the attention of the House to the report of the Commissioner, and also to the returns laid on the Table. I think I am perfectly in order.

MR. SPEAKER: It appears to me the hon. member is not out of order, so far, according to the motion standing in his name.

MR. CAREY: Some fifteen years ago, Mr. Padbury purchased a block of land for Davis on the Blackwood Road, near to the late Mr. Edwin Padbury's. In order to secure himself, the land was purchased in Mr. Walter Padbury's name; but years ago it was redeemed and duly transferred to Thomas Davis. Soon after Mr. E. Padbury's death his property was sold to Mr. H. Spencer of Bunbury, and application was made to bring this property under the Act. The Commissioner issues a certificate, but in doing so he includes Davis' land, for which there was no application whatever, and gives Mr. Spencer a property that Davis had purchased, and spent the best part of his life in improving. At my suggestion, Davis placed the matter in

the hands of a firm of solicitors (Messrs. Stone & Burt); and Mr. Spencer being called upon to make certain affidavits the error was rectified. But there is no doubt that had Mr. Spencer chosen to sue, on the strength of his certificate, duly obtained from the Commissioner, the Colony would have been called upon to pay for the land in respect of which the Commissioner had granted a certificate of title, although no application had been made to include the land in question in the certificate. The next case to which I will refer is that of an hon. member of this House, Mr. J. T. Monger, who some time ago applied for a certificate of title in accordance with particulars furnished. When the advertisement notifying the application appeared, it turned out to be land belonging to another member of this House, also a resident of York, who at once had a *caveat* entered, and thereby saved the land from being transferred to a person who had no claim to it whatever. The Commissioner, not satisfied with giving the land in question—

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): Really, it seems to me that the hon. gentleman is taking advantage of your Honor's ruling in order to cast aspersions upon a public department. I think until I reply to his motion, on the part of the Government, he should refrain from entering into particulars, which he may then find unnecessary and uncalled for.

MR. CAREY: The Government will hereafter have an opportunity of replying. This is not a matter of to-day or of yesterday; all these things, so far, are within the knowledge of the Government, as the hon. gentleman must be aware.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): I am not aware of it.

MR. SPEAKER: I cannot rule the hon. member out of order so long as he confines himself to the subject matter of his motion. He must be allowed to point out the errors which he proposes to base his resolution upon.

MR. CAREY: That is just what I want to do, but it seems that the hon. gentleman, who has twice interrupted me, wants to burk discussion in this matter. I was going to remark that the Commissioner after his first error was not satisfied with giving a certificate for

the land described, but also included the blocks right and left of it, belonging to other persons; his attention however was called to this second blunder, and, after a great deal of trouble and delay—trouble and expense on the part of the applicant and delay on the part of the Commissioner—the former obtained a title for the block of land which he first applied for. Another case to which I would draw attention is that of a gentleman at the South, Mr. Waller Clifton, who, in 1876—

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): I must rise again on this occasion, though certainly not with any view on the part of the Government to stop discussion. I think the expression made use of by the hon. member that we want to "burk" the question is one that will not commend itself to the approval of this House.

MR. CAREY: Early in 1876, Mr. Waller Clifton made an application to bring some land under the operation of the Act, but a certificate was not issued to him until the end of 1877—very nearly two years after the application was made, although there was no cause whatever for such a lengthened delay, or, indeed, any delay at all beyond about a month. In another case, a clean certificate was issued showing land to be free from all encumbrances, when at the same time there was a mortgage of £700 actually registered against the land in question, and said to be endorsed on the deed. An application was also sent in from Champion Bay to bring land under the operation of the Act, but the application was placed on one side and forgotten altogether, until the certificate was, long afterwards, applied for by the owner. Again; certificates of title were applied for by the municipality of Perth and the municipality of Fremantle, which certificates, when issued, actually bore the endorsement "no survivorship"—the Attorney General and other legal gentlemen are present to explain. The absurdity of such an endorsement, in the case of corporate bodies, might well lead ill-natured people to say that the Commissioner did not know much about conveyancing. Another case to which I would refer is that in which the owner of a piece of land applied that the certificate should issue in the name of an intended

purchaser, subject to a lien, for unpaid purchase money; but, instead of that, the certificate was issued directly to the intended purchaser, without any notice being taken of the lien. Take again the case of a mortgagor who, with the consent of the mortgagee, applied for a certificate, and had the certificate issued free from the mortgage, without the knowledge or consent of the mortgagee. This actually occurred in three different cases—at Fremantle, at Guildford, and at the South. Had it not been for the hon. gentleman's interruptions and attempts to put me down, I would not have gone into the subject at such length, though, if I wished to occupy the time of the House I could do so to a much greater extent, and cite case after case. But what I have already cited I think fully justifies me in drawing the attention of the House and of the Government to the working of this department. Our Act, I believe, agrees in its main principles with the Acts in force in the other Colonies, and there, I find, rules and instructions are laid down for the conduct of the office; that some such rules are absolutely required here, I think the cases I have referred to abundantly show. If such regulations were in force, the errors I have pointed out could not have taken place. In Victoria, the Registrar has to report, monthly, to the Attorney General, what applications have been made, and, if not dealt with, reasons must be shown why such is the case. I think, as I have already said, I have shown very sufficient reasons why some such plan should be adopted here. People would then have more confidence in the working of the Act. There cannot be much confidence in it now, for the cases I have mentioned are well known and easily proven. I might add a good deal with regard to the system pursued with reference to advertisements in connection with the department, but all I will say is, if no instructions are already issued it would be well that there should be some rules laid down for the guidance of the Registrar with regard to the collection of the money now payable for advertisements. I think there ought to be some accounts kept, and those accounts ought to show how that part of the business always stands. For reasons that it is unnecessary to enter upon, I

refrain from further remarks as to the Registrar. The hon. member then moved—That a Select Committee be appointed to enquire into the working of the department, such Committee to consist of Mr. Brown, Mr. Monger, Mr. Hamersley, the Attorney General, Mr. Harper, and the mover, with power to call for persons and papers.

MR. BROWN rose to a Point of Order. He was not at all clear that the course proposed to be adopted in appointing a Select Committee was the proper course to pursue. He believed it was not the practice to appoint Select Committees unless notice thereof were given, and that notice should embody the names of those members whom it was proposed should constitute the Select Committee. In support of this view he would call the attention of the House to Standing Order 68—"The notice of motion for the appointment of any Select Committee shall contain the names of the members whom the mover intends shall serve on such Committee." He did not rise to oppose the appointment of a Select Committee in the present case, for he thought it was a very proper course to adopt, and he would be happy to do all within his power to support the hon. member for the Vasse in sifting the matter referred to, which, it appeared to him (Mr. Brown) was their duty to the country at large as well as to the officer whose department had been assailed.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser): We must draw the line somewhere between the functions of this House and the functions of the Executive Government. This Council undoubtedly has a perfect right to inquire into the working of any department of the public service, and to appoint Select Committees to conduct such inquiry; but when it proposes to trespass on what must clearly be regarded as the functions of the Executive, we must, as I have already said, draw the line somewhere. I maintain that this House has nothing whatever to do with the duty which it is proposed to delegate to the Select Committee in this case: it may very properly draw the attention of the Government to any maladministration supposed to exist in a department, with a view to an inquiry being instituted by the proper authori-

ties, but surely it cannot be within the province of this House to appoint a Select Committee of its own members to conduct such inquiry. No one knows better than the hon. member for Geraldton what are the legitimate functions of this House, and that it is only necessary to draw the attention of the Government to the laches complained of by the hon. member for Vasse to ensure a strict inquiry into the charges made against the department in question.

THE ATTORNEY GENERAL (Hon. H. H. Hocking): It certainly appears to me that before a Select Committee is appointed to inquire into anything, it should be the duty of the House to point out the precise question into which that Committee should inquire. What are to be the functions of this proposed Committee? The hon. member who moved for it, in his notice of motion said he would draw the attention of the House to so and so, and would ask the Government "whether they propose to take any steps to remedy the delays and grave errors that take place in this department"—namely, the Land Titles Department. Has the hon. member asked the Government that question? Does he know, or has he put the House in a position to know, whether the Government is aware of the way in which the particular department which he has assailed is administered, or whether the Government is satisfied with the way in which it is administered? He has not yet asked the question of which he gave notice, but concluded his motion by moving for a Select Committee, at the last moment, to inquire into certain charges which he has thought fit to make against the officer entrusted with the administration of the department. It is absurd to think that this House would condemn, and that, too, in no measured terms, the administration of any public officer on the mere *ipse dixit* of any hon. member; and now he asks for a Select Committee to be appointed—for what? What definite charges of mal-administration are they to inquire into? He has done me the honor of placing my name on the Committee, but I would like to know what we are expected to do. Are we to go into the office and ransack all the papers, or what? We are not to inquire into the

truth of certain specific charges, but into the working of the department, which I think would be trenching upon the functions of the Executive Government. His Excellency the Governor, who is the responsible head of the Executive, has to keep a strict eye as to how every department of the service is administered, and I submit it is not within the province of this House to appoint a Select Committee of this inquisitorial character to inquire into the working of public departments. I am really at a loss to know what sort of a report the Committee would draw out. The hon. member has spoken of the great delays that occur in connection with the department. It may appear a very simple thing, when an application goes in, to polish it off out of hand; but I know a little about the working of this office, and it is by no means so simple a matter as the hon. member seems to think. The hon. member has not brought forward a single case in which he has shown that, although delays may have occurred, those delays were unwarrantable and avoidable.

MR. BROWN: May I ask you (Mr. Speaker) to rule if the motion for the Select Committee is in order?

MR. SPEAKER: I think it is.

MR. BROWN: There seems to be an idea on the part of the occupants of the Government benches that the House is dissatisfied with the way they have exercised their functions with regard to the administration of the department under discussion. I am not aware that it is said by any one that the Government have shown any laxity in the matter; but I was exceedingly surprised to hear the Government say it is not within the province of this House to inquire into the working of any department of the public service. I have always maintained, and do maintain, that to institute such inquiries is among the functions of the Legislature, and I have no doubt if this matter is referred to a Select Committee of the House the Committee will know how far to push its investigations without trespassing on the proper and legitimate functions of the Executive, which I am sure it is not their intention to do. I think when there exists a feeling of dissatisfaction in the public mind as to the working of any public department,

this House should show, by its action, that it takes cognisance of that feeling, and that it will take steps to ascertain whether it is well-founded or not. Of course, for all we know, the Government may already have been aware of the errors and delays referred to by the hon. member for Vasse, and the head of the department may have been reprimanded; or, on the other hand, exculpated from all blame. Be that as it may, no doubt a strong feeling of dissatisfaction exists outside with reference to the working of the department in question; there may be no foundation for such feeling, but the fact remains that it exists. A Select Committee would either confirm the allegations made against the department, or, on the other hand, allay the public feeling of dissatisfaction which prevails.

MR. CROWTHER thought that the allegations made by the hon. member for Vasse were sufficient to warrant the House in appointing a Select Committee. The same course had been adopted with regard to other departments of the public service, and he was surprised to hear that such inquiries were not within the province of that House, and to learn that it could not investigate grievances connected with the public service without rendering itself liable to be "sat upon." It appeared to him that the Government members, and especially the hon. gentleman opposite (the Colonial Secretary), were inclined to be a little thin-skinned. He did not think there was a member inside the House who did not give the Government credit for doing its best in the interests of the public; but when grievances in connection with a public department were brought under the attention of the House, he did not think it was incumbent upon hon. members to approach the consideration of such grievances with bated breath and with servile humility. He did not feel inclined to do so, at any rate. The question had been asked, what would be the functions of the Select Committee proposed to be appointed? The answer to that was simple enough: their function would be to ascertain whether the abuses alleged to exist did exist—whether "grave errors" and "undue delays" had taken place in connection with the department. He himself knew of an application sent to the office last December, but the appli-

cant had heard nothing of it since. He could not conceive that the pressure of business in the department was so great that applications to bring land under the operation of the Act could not be replied to for twelve, eighteen, or twenty-four months. He would support the motion for a Select Committee, and he was quite sure that the Government members, when they came to regard the matter calmly and dispassionately, would think the House was adopting the proper course in acting as it proposed to do in the matter, and if any abuses were found to exist would lose no time in remedying them.

SIR T. COCKBURN-CAMPBELL thought the wording of the resolution was very vague, and he would therefore move an amendment as follows: "That 'all the words after the word 'That,' 'be struck out, and that the following 'words be inserted in lieu thereof:—' A 'Select Committee be appointed to enquire into the truth of the charges made 'made by the honorable member for 'the Vasse with regard to delays and 'grave errors made by the Commissioner 'of Titles in his Department; such Committee to consist of Mr. Brown, Mr. 'Monger, the Honorable H. H. Hocking, Mr. Harper, and Mr. S. S. 'Parker.'" As to the opposition manifested on the part of the Government members to the appointment of a Select Committee—an objection based upon the assumption that the House was desirous of usurping the functions of the Executive—the Government must recollect that the country had to pay for the working of this department. The public were aware that charges of neglect had been made against the department, and were alive to the fact that, if any errors were made, they (the public) would have to bear the expenses attendant thereon. It appeared to him that it was no less due to the gentleman who was at the head of the department than to the public that an opportunity should be afforded him to show that the feeling of dissatisfaction which existed was unfounded.

MR. SHENTON fully endorsed the opinion expressed by previous speakers that this was a matter which ought to be referred to a Select Committee, so that there might be a thorough investigation into the charges brought against the department. There undoubtedly did exist

a strong feeling outside the House that matters were not carried on in this office as they should be, and that grave errors had been made—errors which, had they not been rectified in time, would have entailed heavy expense upon the country. No wonder therefore that there existed in the public mind a feeling of uneasiness as to the working of the department, seeing that the cost of any mistakes made by the officers connected with the office would have to be borne by the public. He hoped a thorough investigation would take place, and that the Committee, if it were discovered there was ground for the allegations made against the department, would not shrink from making such representations to the House, and through the House to the Government, as would ensure the department being placed on a satisfactory footing.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy), in seconding the amendment of the hon. member for Albany, craved the indulgence of the House while he offered a few remarks in reply to what had fallen from the hon. member for Greenough, who had accused him of being somewhat thin-skinned. He was sorry he could not agree with the hon. member on that point, but, at the same time, he thought the Government had not been treated well in this instance. The Government had on all occasions—and he thought the House would bear witness to the fact—afforded every facility for inquiry into any matter connected with the public service, and, so long as such inquiry was confined to legitimate bounds, would always be prepared to afford hon. members every information, and every facility for inquiring into the working of any department. But what was the case here? The hon. member for Vasse gave notice that, having first called attention to the report of the Commissioner of Land Titles, he would ask the Government, “Whether they proposed to take any steps to remedy the delays and errors that took place in the Department?” Had that been done? Did the hon. member pursuant to his notice, ask the question? No. On the contrary—to use the hon. member’s own expression—he “burked” it. [Mr. Carey: The expression is not mine.] He (the Colonial Secretary) had come prepared to answer the question, if

it had been asked, but no opportunity had been afforded him to do so. Were hon. members aware what they were doing in agreeing to the appointment of this Select Committee? They had listened to an *ex parte* statement, and had so far agreed with that *ex parte* statement—without an opportunity being granted to the Government to defend its officers—they had so far accepted the hon. member’s aspersions as well-founded [Mr. Brown: No.] that they asked for a Select Committee to inquire into them, trusting to his *ipse dixit* in the matter. He did think this was not treating the Government well, when the Government had shown every desire, on all occasions, to afford the House every information hon. members wished for. He had seconded the amendment of the hon. member for Albany, because he thought it was more definite than the original resolution, which certainly was very vague and unsatisfactory. Very grave charges had been brought against the department in question, and certainly the Government had no desire to burk the inquiry. He noticed, however, that, according to Standing Order No. 70 “No member shall sit on a Select Committee who shall be directly interested in the inquiry before such Committee.” In the present instance the hon. member for Vasse, who had brought forward the charges against the department, and who was, in fact, the accuser, had nominated himself on the Committee, which appeared to him (the Colonial Secretary) to be hardly consistent with the Standing Order referred to.

MR. CAREY: I have no personal interest whatever in the matter. I merely spoke as an independent member of this House, and as the representative of a constituency interested, like all other constituencies, in the working of the department. I therefore fail to see how I can be looked upon personally as the accuser of the department.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): When an hon. member makes a charge against a public officer he must be interested in substantiating that charge.

MR. CAREY: I must take exception to the hon. gentleman’s language: the matter is not one in which I am interested in any way.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): I am sorry I cannot withdraw my words on this occasion, and I think the hon. member must himself confess it would have been better if he had not nominated himself on the Committee.

MR. CROWTHER said it was a rule of the House that the mover shall serve on such Committee.

The SPEAKER: There is nothing to prevent the hon. member for Vasse sitting on a Select Committee in which he is not personally or directly interested. It is, however, for the House to determine who shall serve, such determination to be signified either on the voices or by ballot.

MR. BURT believed that whatever errors or delays had occurred in connection with the office referred to were solely attributable to the over-zealousness of the Commissioner, who certainly was the most zealous public officer he had ever come across.

Question—"That a Select Committee be appointed to enquire into the truth of the charges made by the honorable member for the Vasse, with regard to delays and grave errors made by the Commissioner of Titles in his Department"—put and passed.

Question—"That the Committee shall consist of Mr. Brown, Mr. Monger, the Honorable H. H. Hocking, Mr. Harper, and Mr. S. S. Parker."

MR. BROWN desired that the Committee be formed by ballot in accordance with Standing Order No. 69.

Agreed to.

Hon. members having delivered the lists of names of members to serve on such Committee, the Clerk reported to the Speaker the following names of members as having the greatest number of votes: Mr. Brown, the Honorable H. H. Hocking, Mr. T. C. Carey, Mr. S. H. Parker, Sir T. C. Campbell.

THIRD READINGS.

The following Bills were read a third time and passed: Customs Ordinance, 1860, Amendment Bill, 1878; and the Incorporation W. A. Bank Shareholders Bill.

DISTRICT ROADS BOARDS AUDIT ACT, 1877, AMENDMENT BILL, 1878.

IN COMMITTEE.

Clause 1.—"Short title."

THE ATTORNEY GENERAL (Hon. H. H. Hocking) suggested that the hon. member in charge of the measure (Mr. Carey), instead of proposing to amend the existing Act in the manner contemplated in the present Bill, should move to repeal the Act altogether. By next Session, they might be able to meet the difficulties which undoubtedly surrounded the question. He thought it would be folly to leave the Act on the statute book, emasculated in the way which the hon. member proposed in the Bill now before the Committee.

MR. CAREY said he was quite prepared to move the repeal of the existing Act.

MR. S. H. PARKER moved that clause 1 be struck out.

Agreed to.

Clause 2: "Section two of the said Act (41 Vict. No. 3) shall be, and the same is hereby amended, by omitting all the words after 'made up' in the 10th line of the said section." [The words proposed to be omitted rendered members of Road Boards individually and collectively liable for any deficit.]

MR. CAREY moved that the clause be struck out.

Agreed to.

MR. CAREY then moved the insertion of the following new clause: "'The District Roads Boards Audit Act, 1877,' shall be and is hereby repealed."

Motion agreed to.

Preamble and title agreed to, and Bill reported.

COLONIAL PASSENGERS AMENDMENT ORDINANCE, 1868, EXPLANATION BILL, 1878.

This Bill was read a second time, and passed through Committee without discussion or amendment.

The House adjourned at a quarter to twelve o'clock, midnight.