

information to be obtained at the Survey Office, the public and the Roads Boards themselves were almost entirely ignorant as to what roads were under the statute and what roads were not under the statute. The roads that had been brought under the statute could always be closed by the process there laid down, and, in cases where they had not been brought under the statute, he thought it was well they should not put too much into the power of people who desired to fence them,—unless some provision were made, retaining the use of such roads for the public, who had been accustomed to use them. There might be exceptional cases, perhaps, where this would be a source of hardship to occupiers of land, in such a district for instance as the Vasse district; but there were many small occupiers who, if they were to live at all, must have access to a river, and if the tracks leading to the river were to be closed in this summary manner, a great deal of hardship and inconvenience would be the result. The Crown allowed the public free access to its lands, and this bill would not very much affect districts where there were still large areas of waste lands; but it would very seriously affect districts where there were large areas of alienated land, in the hands of a few people. He thought it would be better to let the law remain as it stood,—for the present at all events.

THE HON. J. G. LEE STEERE thought they ought to do everything they possibly could to encourage fencing in country districts, and he understood that was the main object of this bill. He believed that in the Eastern Districts the settlers at present did not derive those advantages which they ought to derive from fencing, and which the present bill would enable them to derive. Even if they were compelled to put up gates, of what value would their paddocks be to them then? There were a great many valuable sheep and other stock now in the colony, and, in the event of these gates being left open, a great deal of injury might be done. He had some doubt at first as to the propriety of the bill, but the more he thought of it, the more he liked it. He thought there would be no difficulty whatever in the way of persons removing stock if this amendment were made. He was sure that if Roads

Boards were requested by the settlers of the district—these Roads Boards did not always know what roads the settlers might want—but if the Boards were requested to declare a road a public road, and they considered the request reasonable, he was sure it would be done at once. There could be no doubt of one thing—the bill, if passed, would be a great advantage to owners of property who wished to fence in their lands. It would not interfere in the least with roads that had been in existence for twenty years, as the public had acquired a prescriptive right over such roads.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The public can acquire a right over a road in much less time than twenty years.

THE HON. J. G. LEE STEERE: Under what law?

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The common law of England.

The motion for the second reading of the bill was then put and carried.

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

LEGISLATIVE COUNCIL,

Thursday, 28th August, 1884.

Consideration of Message (No. 55): Amended proposals of Mr. Hordern, re Railway from Beverley to Albany—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

MR. HORDERN'S AMENDED PROPOSALS
RE RAILWAY FROM BEVERLEY TO
ALBANY (MESSAGE No. 55).

On the order of the day for the consideration of His Excellency's Message (No. 25) forwarding further correspond-

ence with Mr. Hordern relative to the construction of the Beverley-Albany railway.

SIR T. COCKBURN-CAMPBELL said he had not been aware until just then that the order of the day was for the consideration of this question in committee,—he thought it might have been possible to consider it in the House. Hon. members were aware that it was a question in which he was greatly interested, but he was in this difficulty: not knowing what the arguments of hon. members might be with regard to His Excellency's message and its enclosures, he scarcely knew how to address himself to the subject; but he should like to make a few remarks before the House went into committee. It appeared that Mr. Hordern having had the resolutions which the House adopted the other day placed before him, had agreed to the greater part of them, but had taken exception to one or two of the modifications made by the select committee and subsequently confirmed by the House. In the first place Mr. Hordern objected to the proposal that the fee simple of the land on which the railway was to be built should not be vested in the syndicate until the completion of the line, and wished that the fee simple of each 20-mile section, as it was completed, should be vested in the syndicate. In the second place he objected to the compensation which the House wished the contractor to pay, both for the land taken for the purposes of the railway and for the land taken in payment for its construction. Mr. Hordern, it appeared, was now willing to pay the leaseholders such compensation as they might be legally entitled to—that was, he imagined, in respect of registered improvements; but, for land taken for the purposes of the railway, he considered that the Government should pay such compensation as might become due. Then, again, with regard to the immigration blocks, Mr. Hordern, it appeared, objected to being forced to select these blocks opposite the sections of the railway in course of construction, and he further objected to being compelled to take the land which the syndicate would become entitled to, in payment for the construction of the line, opposite the sections in course of construction. In other words, he wished to be allowed to make his selections, as the House agreed last year he should be

allowed to make them, indiscriminately within the area reserved for that purpose, on any part of the line. As a guaranty that he will carry the railway through, he expressed himself willing to forego the fee simple of one half of these selections until the railway was completed, and, further, he was willing to leave in the hands of the Government the £10,000 deposit for three years after the completion of the line. These were the modifications, the final compromise, which Mr. Hordern now proposed, and he must say that for his part he thought they were perfectly reasonable, and such as the House should accept. As he said on a former occasion in addressing the House on this subject, if they came to the conclusion that this railway ought to be built, and built on the land grant railway system, he failed to see why there should be any difficulty in arriving at the conclusion that these proposals of the contractor, so far as they were reasonable in themselves, should not be accepted. He had heard a great deal said as to what the contractor had stated he was willing to do some time ago, and some stress had been laid on the fact that what he was willing to do then he was not willing to do now. But hon. members must recollect that at the time he expressed his willingness to undertake the work on the terms first proposed—terms which were very satisfactory, so far as we were concerned—everybody, he believed, spoke of him as acting in a foolish manner, without having duly considered what he was about, that in fact he was to a certain extent acting in the dark. He made a certain offer, it appeared, while thus acting in the dark, and the House did not take up that offer; therefore he (the hon. baronet) did not think the House had any right to insist that he should be pinned to that offer. They knew that since that time Mr. Hordern had been acting under advice, good advice; and, acting upon that advice, he now came forward and said he could not carry out the work on the terms he originally thought he could, and he offered them now this final compromise, which to his (the hon. baronet's) mind was a perfectly reasonable one. If they considered this railway would be a great boon to the colony—to the southern parts of the colony in particular, as he felt certain it would be—he thought they

ought to accept this compromise, without any further higgling or haggling. If they wished to win anything they must venture something. But it seemed to him some hon. members were disinclined to venture anything at all. As he stated in his opening remarks, he did not yet know what objections might be taken to these proposals of Mr. Hordern, but it had been his intention to have moved a resolution to this effect—that the House, having considered the matter, was willing to accept this final compromise offered by Mr. Hordern, and recommended that the contract should be drafted accordingly. He was not now able to move this resolution, but he hoped some hon. member would be prepared to do so.

The House then went into committee.

Mr. BROWN said, as he thoroughly approved of the resolution drafted by the hon. member for Plantagenet, and as the hon. baronet himself would be unable to move it, he would do so.

THE HON. J. G. LEE STEERE moved, That the various paragraphs of Mr. Hordern's letter (dated 25th Aug., 1884) be considered *seriatim*, which was agreed to.

Paragraphs 1 and 2 (introductory).

Paragraph 3—Legislature proposing that fee simple of the lands taken for the purposes of the railway shall not vest in the contractor until the completion of the line, Mr. Hordern feels himself unable to agree, but expresses his willingness to accept a condition to this effect—that as each 20-mile section shall be completed, equipped, and in working order, so the land upon which it is constructed shall vest in the contractor :

THE HON. J. G. LEE STEERE said there could be no doubt that this was a very different condition from what the House agreed to the other day; but as he looked upon this as Mr. Hordern's final proposal to the Government, and as he thought it was very desirable they should come to some definite conclusion on the subject, probably the House would do well to accept this compromise. He must say he thought there had been a great deal too much wavering and indecision with reference to this contract, and no doubt that was one of the reasons why the contractor and the Government had not come to some definite understanding before now. He thought the time had arrived for a final decision on the sub-

ject; and looking at the fact that the country had, so to speak, set its heart on this work, and that it would be a very unfortunate thing for the colony if it were to fall through, he felt inclined to give way as regards this concession. He would therefore move, That the compromise embodied in this paragraph be agreed to.

Mr. MARMION said the proposal referred to was made to keep back the land from the contractor until the work was done. It came on for discussion before the select committee at a very late hour, and it was suggested at the time in lieu of a forfeiture of the line, as it was considered it might be awkward for the contractor to raise money for the construction of the line. The contractor had met them to this extent,—that he should not have the fee simple of the whole line—which was the basis of the contract at present—but would be content with 20-mile sections. Seeing with what interest the project was viewed throughout the colony, and the great desire expressed to see the work commenced, he thought the House might feel disposed—though not at all a minor point—to give way.

Mr. BURT thought they were all agreed that this proposal should be assented to; therefore there was no need to talk any more about it. He thought what the contractor asked for was a reasonable thing for him to have asked for, and he would suggest that the committee should now go on to the other proposals.

Mr. RANDELL would like to say a few words, if the hon. member for Murray had no objection, before they proceeded to deal with the other proposals. He was inclined to disagree with the hon. member for Fremantle that this was such an important point. He did not think there was much difference between this and their original proposition, and, for his own part, he did not look at it as any great concession. He had no objection to the proposition himself; but for quite different reasons from those given by some hon. members. Whether it was to be regarded as a final compromise or not—as Mr. Hordern's ultimatum—was a consideration that would have had no weight with him, unless he thought the compromise offered was a fair and reason-

able one. There might be a difference of opinion as to the effect which this line would have upon the colony—he was not going to express an opinion on that point at present; but he knew that many people were of opinion it would be better not to have our railways constructed on the land grant system at all, but to construct them ourselves, bit by bit, as we could afford it.

MR. BROWN said there was no very great difference, from the point of view he looked at it, between the recommendations of the Council and these proposals of Mr. Hordern. The object of the Council in confining him to the land opposite each section constructed, he thought,—at any rate that was his (Mr. Brown's) object in moving it—was that the country should have good and full security that the line would be constructed right through, from one end to the other. When the Council last year agreed that he should have the right of free selection, they had a security that the line would be carried through,—that security being a forfeiture of the railway in the event of its not being carried through. That was a condition which Mr. Hordern had since objected to, and upon grounds which the Council considered sufficient grounds. So soon as the Council gave up that right of forfeiture, they lost what he conceived was the strongest hold which they had upon the contractor. It then became necessary to substitute some other security, and therefore it was that he proposed, and the House agreed, that the contractor should be limited in the selection of his land to the areas opposite each section as it was constructed. At that time the conditions were, that, while the contractor was thus restricted as to his selections, he was to receive the fee simple of three-fourths of the land selected; but now that he wished to have the right of free selection over the whole of the reserved area, he expressed himself as content to receive the fee simple of only one-half the land, so selected, pending the completion of the whole line, leaving the other half in the hands of the Government as security for the due performance of his contract. He (Mr. Brown) thought that with this security, in addition to the £10,000 deposit, the country would have ample security for the work being carried through.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the question now seemed to resolve itself into this—were we to have this railway or not? Some hon. members might think it was reckless on the part of the House and reckless on the part of the Government to accept any such compromises as were embodied in these proposals. Of course they involved a very considerable departure from the original proposals of the contractor; but it was no use arguing now as to what may have been or what may not have been; it now came to a question how far they were prepared to meet the contractor in these final proposals. For himself, he should be disposed to meet him liberally. He wanted to see this line made, and he thought they ought to be prepared to give all reasonable concessions to attain that end. It appeared to him that as regards the modification now before the committee, they were going little or nothing beyond the terms of the draft contract originally prepared by the Crown Agents, on the lines laid down by the House last year.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he could not himself agree with some hon. members that this was not an important matter. It appeared to him it was a very important matter. He desired to say just one word upon what had been said by the hon. member for Plantagenet, when he moved the House into committee, namely, that the contractor (as he understood the hon. baronet) was to a certain extent in the dark when he made his original proposals to the Council, and that since then he had taken further and better advice, and that he now saw the true state of things better than he had done. He must say that was an argument that had not much weight with him. He thought, in a case of this kind, they must assume that a gentleman who came forward with such large proposals as those now before the House had previously ascertained the facts upon which he based his proposals. It might be that if he was in some respects in the dark that Council also may have been in some respects in the dark, and that both parties now understood better what they were about. Nor could he assent to the hon. baronet's suggestion that it was not desirable we should higgie any further about a matter of this

kind. He did not know that there ever was a matter before the colony of greater importance—unless possibly it was the change in its constitution, fourteen years ago; for it was a matter that, if it turned out well, would be of the utmost advantage to the colony. And it should be also borne in mind that if it turned out ill, if it should happen to collapse at any time, it would have a most injurious effect upon the interests of the colony. He thought, if they balanced the good and evil which might result from its turning out well or turning out badly,—if it were to turn out badly it would be a matter that would affect the colony almost if not quite as much as if it turned out well. The point before the House at this moment was the consideration of whether the fee simple of the land upon which the line is to be built, and of the land given away for the line, should be vested in the contractor. Originally, as the contract was drafted by the Crown Agents, the whole of the land was absolutely vested in the contractor—a condition based upon the recommendations of that House—subject to forfeiture of the line in case of its not being worked continuously, in which case it was to have reverted to the Government and become vested in the Government absolutely. The effect of that would have been this—it would have ensured the work not being taken up by any person or company who were not determined to risk their all in carrying out the contract to its final completion. This was met by the contractor's suggestion that the whole line should be absolutely the property of the contractor, leaving out altogether the right of forfeiture, and he asked that the land as he took it up should belong to him or those who joined with him in the enterprise. The result would be this: if a portion of the line were built at both ends and carried a certain distance,—no matter what might afterwards happen, no matter whether the company collapsed, no matter what might be the state of the case, there was the line at both ends the absolute property of the contractor, with the right at once to sell or mortgage it, or to deal with it in any way. Then they would get other interests coming in, and what would be the result, if the matter stood simply in that way? It was

all very well to say that certain penalties were provided for, and that there would be a deposit of £10,000 to fall back upon; but that would not go very far, and who were they then to look to? The land would be absolutely gone, and the colony would find itself with two bits of a line, which might be very expensive to work, which it might be impracticable to work, vested in somebody else. Looking at it in this light, the select committee formulated certain conditions, to the effect that the land as the line was constructed should belong to the contractor, but that it should not be absolutely vested in him until the whole line was completed. If that limitation was going to be struck out, it seemed to him they would be departing very materially, on a vital part of the contract, from the suggestion of the committee. It was suggested that the contractor had now, so to speak, put his foot down, and said "Either accept what I now propose, or don't; this is my ultimatum." Of course it was inconvenient to have to discuss a contract in this public way, but, if he had anything to do with a contract, and a person told him he could not do this or accept that, he should not necessarily take it as final. They knew people frequently did depart from the terms they had laid down. He himself was not at all prepared to admit from what he had heard—and he knew of nothing behind, except what he heard in that House—that this was to be the contractor's ultimatum. What he should wish to suggest was this: the terms now proposed involved a very important departure from what the select committee had recommended, and from what the House had affirmed: it did not provide for what he thought should be the very essence of the contract, namely, that the line shall be completed right through. The whole of these concessions made to the syndicate were made on the understanding that the line is to be completed from end to end. They were giving away all this land with that idea. This was the cardinal feature of the whole agreement, and unless they had some assurance that the line will be completed they were giving the contractor a different price altogether from what they would have given him for a line constructed a bit here and a bit there. He was not at all pre-

pared to accept the suggestion that this was an unimportant matter. He thought the committee, having given this point their most careful consideration, should be prepared to stand to their report. That was his view. The hon. baronet told them he had a strong interest in this matter. He could not say that he felt the same nature or class of interest as the hon. baronet might feel in the matter, but at all events his interest was to advise to the best of his ability. It was not for him to say whether his suggestions should be in any way acted upon: at all events he felt bound in an important matter of this kind—and it was an important matter—to offer them for the consideration of the House, and he must say he did not believe in at once assenting to these proposals.

Mr. S. H. PARKER said the only question now before them was, whether these proposals were reasonable. If there was anything unreasonable about them, if we thought we could get the work done by any other contractor upon better terms for the colony, if we were satisfied on these points, his advice would be,—do not let us concede any more. On the other hand, if we were of opinion there was no probability of having the work constructed unless we did concede what the contractor asked, and if we were of opinion that these concessions were reasonable and fair, he thought it was our duty to grant them. The Attorney General told them it would be most disastrous for the colony if the work were commenced and afterwards collapsed. He quite agreed with the hon. and learned gentleman. But he thought it would be still more disastrous for the colony if that House were now to say, “a select committee having reported on this subject in a certain way—although these concessions are fair and reasonable—we shall stick to that select committee’s report and not depart from it one iota,” and the work were thus lost to us altogether—if we did that it would be still more disastrous. In dealing with this question now, it appeared to him they were dealing with it, so to speak, *de novo*; he did not think they were at all bound by the report of the select committee, except so far that they knew the committee had devoted considerable time

and attention to the subject, and that they might be assumed to have arrived at a reasonable conclusion in the matter, with the information then before them. But he did not think they were at all bound by the report of the select committee, a committee that was now defunct, and he thought the House would be wanting in courtesy to the Governor if it were to say to His Excellency, “We cannot consider Your Excellency’s message, for we cannot now depart from the report of our select committee.” They were told that if we gave way on this point we should have no security for the completion of the line. It appeared to him we should. The contractor, in view of this concession being made to him, expressed his willingness to be content with the fee simple of only one-half of the land—instead of two-thirds of it, which the House had agreed to give him,—until the whole line was completed. Surely that was one strong inducement. And he had every other inducement to complete it. The first half would only give him 120,000 acres, but if he completed the whole line he would get 360,000 acres for the last half. It must be remembered that this line was a long line, and, with rolling stock, would cost (roughly speaking) a million of money. Was it at all unreasonable to expect that the contractor engaged in the construction of a work of this magnitude would not want to borrow money on this land? Was it reasonable to suppose that the syndicate would have a million of money to spend right away on this undertaking, and would not have to go to a Bank and say, “We have now done so much, there is the line and there is the land, will you advance us the money to proceed with it?” Was not that the usual way in which contractors went to work, when engaged in large undertakings of this character? Even in England, as well as elsewhere, when railways were constructed, were they not constructed by the issuing of debentures? Why should we tie down the contractor here to complete the whole work before we gave him his land? No contractor in the world would undertake a work of this magnitude if he was to be precluded from taking the land as he went on, and offering it as security for money which he might require to borrow as the work

progressed. If these proposals would not bear the light of discussion, they ought not to discuss them, but to his mind they were fair and reasonable proposals.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said the arguments of the hon. member for Perth might be very good arguments if we were only giving the contractor the line of railway itself, and nothing else. But it must be borne in mind that we had also offered to give 240,000 acres of land for every section he constructed. Therefore he would not only have his railway to depend upon for raising money, but also the land, which would be a more valuable part of the concession than the line, for purposes of financing. But he was under the impression all along that we were dealing with a very powerful and wealthy syndicate. Mr. Hordern himself, when he first appeared on the scene, represented himself as being a member of a powerful syndicate, that was prepared to do certain things for us, but now a new feature had entered into the discussion,—the question of mortgaging the railway and the land, in order to enable the contractor to finish the work, had been prominently brought forward. In other words they now found that instead of having a powerful syndicate to deal with, they were dealing with a syndicate that was prepared to undertake and carry out a portion of the work, and then go into the money market or to the Banks to mortgage the work done, in order to enable them to complete the undertaking. That was a new feature altogether. It had always appeared to him that the one feature of this scheme which commended it to the House and to the country was the idea that it would connect the capital of the colony and our Eastern Districts with the port of Albany. It was not that a portion should be built from Albany northward and another portion from Beverley southward. The reason the country was desirous to see the line commenced at Beverley was, that, in the event of the syndicate failing to carry out its undertaking to completion, we should at any rate have what would be a feeder to our present lines, and not a line running some 50 or 60 miles out of Albany and then stopping—a line unconnected with

our present railway system in any way, and a line which in the present circumstances of the colony we would never think of undertaking. In all large contracts such as at this, he thought there ought to be some guaranty that the contractors would complete the work, and he thought we should be very careful to provide such safeguards in the contract as will prevent our being left with a 'white elephant' on our hands, and a work which would for ever remain a monument of our own folly. We must remember that we were about to lock up 12,000,000 acres of our territory, and not for a day but for the next seven years, and that whilst so locked up it would not bring a penny to the revenue. Hon. members seemed to lay too much stress upon the question, whether we shall have this railway or not. For his own part he hoped we would have it, but only upon such terms as would be advantageous to the colony, and not upon any terms which the contractor may choose to dictate. He did not think we were in that position at all. The hon. member for Perth said we ought to grant these concessions if we considered they were fair and reasonable in themselves. If he had to answer that question he should be inclined to say they were not fair and reasonable. Having abandoned the forfeiture clause, he thought we were bound to protect ourselves in some other way, and he considered the compromise arrived at by the select committee was as liberal as we could reasonably be expected to make. Many members of the select committee thought we would not be sufficiently protecting ourselves even then, and he was one of the members who thought so; still he was willing to give way to this extent, that if the contractor was prepared to wait until the completion of the whole line before he got the fee simple of his land, that would be some guaranty that the work would be completed. He did not look upon this syndicate as some hon. members seemed to look upon it. He did not think that Mr. Hordern when he got this contract would have to go hawking it about, endeavoring to finance it, so as to enable him to carry it through. He preferred to take Mr. Hordern's own words, that he represented a powerful syndicate, who were quite prepared to

carry out the work. That being the case, he failed to see that it could be any great disadvantage to such a syndicate, or to Mr. Hordern, if he was acting in a *bonâ fide* manner, as hoped he was,—it would be no great hardship that he should have to wait until the completion of his contract before he got the fee simple of these lands. He would have 240,000 acres for every section he built, to finance with, if he wanted to finance; and, if his syndicate was as powerful as he represented it to be, he thought he ought to have accepted the terms offered to him.

MR. CROWTHER said the hon. gentleman who had last spoken reminded him of the boy over the border, who wanted to hold all the marbles and have the first shot every game. The hon. gentleman would have the colony protected in every possible way, and risk nothing, while, on the other hand, he would have the contractor tied up, hand and foot, and not able to fire a single shot. As to locking up 12,000,000 acres of land for the next seven years, all he could say was if this 12,000,000 acres did not bring us in more during the next seven years than they had brought us in during the past seven years, he did not think the country would lose very much by it.

THE COMMISSIONER OF RAILWAYS (Mr. C. T. Mason) said he must express his regret at not being able to agree with his hon. friend the Commissioner of Crown Lands in this matter. He thought his hon. friend had taken rather too narrow a view of it, instead of a "broad and comprehensive" view. The question to his mind resolved itself into this: Mr. Hordern came before them with certain proposals, and it was said, "How do we know they are *bonâ fide* proposals, or that he has the money to carry the work through?" He thought no man of common sense—and he thought they would give Mr. Hordern credit for a good deal of common sense—would put £10,000 in the hands of the Government, not for a short time, but until the whole line is completed, and also leave himself at the mercy of the Government as to the fee simple of one-half of all the land he was entitled to; he said no man in his senses would do this unless he fully intended to carry out

his contract. Yet they were asked what guarantee had we that this contract would be fulfilled? What guarantee had anyone who entered into a contract that it would be fulfilled? There must be some mutual trust and confidence in these matters. What security had the Government that its other railway contracts would have been carried to completion? So long as every reasonable precaution was exercised, he thought we ought to be satisfied. It would be impossible, in a scheme of this magnitude, to so tie down the contractor that there shall not possibly be any hitch whatever in the progress of the work from beginning to end. He thought, if the House insisted upon the conditions now laid down, and which Mr. Hordern himself was willing to accept, the House would have done its duty well,—as well to the contractor as to the country. He could not help thinking that if we did not agree to these proposals the chances were we should not have this railway at all. He would say to hon. members, in the words of Charles Reade, "Put yourself in his place." Let them put themselves in Mr. Hordern's place in this matter, and ask themselves whether they would be prepared to undertake this great work on conditions more liberal than those offered by Mr. Hordern.

MR. MARMION said the object in view, in accepting this principle in the construction of the colony's railways, was to obviate the expenditure of money which it was considered inconvenient for the colony itself to raise. Were it convenient for the colony to raise this money by loan, he thought the country at large would prefer to borrow than to adopt this principle. That being conceded, they were now going to put the work in the hands of a contractor, who undertook to build the line for us, receiving payment in land. The contract was to build a line from Beverley to Albany, and not between different sections along the line; and, after they agreed to the terms of the contractor, the question came,—what guarantee have we that the line will be constructed from end to end? It was ridiculous talking about the £10,000 deposit—that was a mere drop in the ocean. Should the speculation turn out a good thing, the contractor might make more than that out of the land granted

to him in respect of one section of the line. So far as the arguments had gone, he thought the Attorney General and the Commissioner of Crown Lands had far the best of it, for their arguments could not be gainsaid,—that in a large contract of this kind the colony ought to have a material guarantee that it would be completed as agreed upon. His idea of such a guarantee had been the forfeiture clause, but he gave way as to that, because of the general anxiety to have the line commenced, and the contractor having told them plainly that he could not undertake the work if the forfeiture clause were insisted upon. As the next best thing, it was agreed that the fee simple of the land in respect of the whole line should not be handed over to the contractor until the whole line had been completed. He was still of opinion that they ought to have adhered to that; but he gave way, and we were placing ourselves in this position: if the contract should not be carried out in its entirety, the result might be that we should have short lines at either end, of little or no use to the colony, and have to buy the railway at such a price as would be simply ruinous. This was the weak point in the whole transaction, and one to which he had given much consideration, to see how to get out of it. It seemed to him that if Mr. Hordern was sincere in the matter of this ultimatum of his, there were certain points upon which the House must give way, or be prepared to lose the line altogether.

MR. BROWN said he liked the hon. member for Fremantle's modesty. The hon. member referred to the question of the colony raising a loan, of say a million, for this particular work as "inconvenient." Was that the way to put it? Did we not know for a fact that the colony, under its present constitution, with its present revenue, and with its 30,000 people, absolutely and positively could not possibly raise the money to construct the whole of this line? He did not think "inconvenient" was the term to use—"impossible" was the word. [The COLONIAL SECRETARY: No, no.] When the matter first came before the House everybody thought what a fine thing it was, and what a step it would prove in advancing the colony, if we could get any syndicate to undertake the work

on the land grant principle, this being a work which everybody admitted was quite beyond our present means to attempt. And was this the only work which the colony required? The hon. member for Fremantle would tell them that they required harbor works; and he would tell the hon. member this,—had it not been for the prospect which this railway held out in developing and pushing the colony ahead, the hon. member would have received nothing like the support he had received towards his harbor works. He thought they were two undertakings that ought to go together; and if this railway scheme were to fall through he should not be at all disposed to pledge the revenues of the colony to the construction of harbor works at Fremantle, to cost a quarter or half a million of money. The Commissioner of Crown Lands, when speaking on the subject, stated something which he (Mr. Brown) thought was deserving of notice. [The COMMISSIONER OF CROWN LANDS: Hear, hear.] He alluded to the hon. gentleman's remarks as to locking up this land. The hon. gentleman said that if we entered upon the construction of this line we should be locking up 12,000,000 acres of land, for seven years, and that during that time the colony would not receive one penny out of this land. Was that a fact?

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest): Not a penny did I say?

MR. BROWN: Not one penny. Why the colony would be receiving during the whole of that time nearly every penny it had been receiving in the past from these lands, or that it was likely to receive in the next seven years, if this railway should not be constructed.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest): In sales?

MR. BROWN: No, not in sales. What sales were there likely to be, what sales had there been of late years, of any land along the route of this proposed line? And if this railway should not be built, the land would remain as it had remained for almost a generation past. The hon. gentleman knew the Government could not sell it tomorrow at 1s. an acre. [Mr. FORREST: Nonsense.] All that would be taken from us would be 120,000 acres for each 20-mile section of

railway constructed. A few hundreds a year was all that this colony would lose, and were they going to forfeit this magnificent work for the mere paltry loss of a few hundreds a year? The land we were offering the contractor was land we were not in a position to utilise ourselves, and the terms we offered the contractor were such as would enable us to utilise it, and utilise it in the immediate future, instead of waiting until it was "convenient" for Western Australia to expend a million of money in order to utilise it.

MR. MARMION said, as to its being "convenient" or "inconvenient" for the colony to borrow the money for this work, he would remind the hon. member that events marched quickly now-a-days. Did the hon. member think, four or five years ago, the colony would have been in a position to go into the money market to borrow half a million?

MR. BROWN: Never dreamt of it, under the present Constitution.

MR. MARMION said no one else dreamt of it; yet the thing was about to happen. The contractor would have seven years to construct this line, and before that time, the colony might be in a position to build the railway itself, section by section, and derive many advantages from the work, which, instead of going to the contractor, would go to the colony. He felt himself that, in agreeing to these proposals, they were making terms which he sometimes thought he ought not to be a party to, simply in order to meet the wishes of the contractor and to gratify the desire of the public to see the work taken in hand.

MR. LOTON said he would like to invite the attention of the committee to the particular paragraph under discussion,—or which ought to be under discussion. He supposed he was right in assuming that the Legislative Council, when it first undertook to legislate on this question, had in view the construction of the line under certain conditions. Certain proposals were put forward by the select committee, among which it was decided that the land should remain vested in the Government, subject to certain conditions as to the completion of the work. The contractor now, on looking at the matter from a

business point of view, saw that a difficulty, and a very serious difficulty, was likely to arise if the whole of the fee simple of the land were to be withheld from him until the completion of the entire line, and he now proposed that for every 20-mile section which he completed he should get the fee simple of so much land as was due to him in respect of that 20-mile section. For his own part, he should have very much liked to have seen the forfeiture clause retained; but this they had all given up in despair, as an unworkable clause. If the Government withheld the fee simple of the land, except such as the contractor became entitled to upon the completion of a section, and merely granted the fee simple in respect of the land due for work actually done and approved, he thought that, with the other conditions provided for, the Government would be safe. What would be the position of the contractor after he had completed one or more sections? He would be in this position: he would have deposited £10,000 with the Government, to be forfeited in the event of the line not being completed as agreed upon, and he would only have had one-half of the land he was entitled to. And what would be the position of the Government, in the event of the contractor stopping after building two or three sections? They would have paid—not in money, but in land—120,000 acres for each section completed; and if the contractor did not work the line, it was provided that the Government should have the right to work it, and the contractor would be under a penalty of £100 a day. Under these circumstances, he thought the House might very well agree to the proposal now before the committee.

MR. SHENTON said the hon. member who had last spoken took exactly the same view of the matter as he did. He thought this daily fine of £100 would meet the difficulty. He knew the contractor would have found great difficulty in forming a syndicate, or at any rate in getting it to enter into any contract, if the forfeiture clause had been insisted upon. No matter how wealthy a syndicate might be, it did not always suit them to launch out the whole of their capital upon a work of this kind; and he thought it was only fair to all parties

that, as the line went on, the contractor should be able to realise on some portion of the land he was entitled to.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): I make no apology whatever for addressing the committee again, for two or three minutes, for I am certain the House is of opinion that this is so important a matter that it should not be passed over hastily, but should receive every consideration we can give it. I do not agree that the question before the House is whether we want this line at all,—I do not agree that that is in the least the question; we are all in accord as to that, and we are not discussing that at all. Nor do I think the question has anything to do with Responsible Government, or a change in the Constitution, or any other "burning question" or exciting question. What we have to deal with is the question of a dry, legal contract, and the only way to look upon it is calmly, as simply a question of law and of policy. It has been suggested that there is a division of opinion among the members sitting on this bench; but we are not here bound hand and foot to any view whatever. We are here to endeavor to assist the Council, as members of the Government, each having his own views upon the subject, and having his own independent suggestions to offer. It has been suggested that this proposal is as stringent as the forfeiture clause; but I must draw the attention of the committee to a very important distinction between this and the original draft contract. The whole railway was to have been the absolute property of the contractor, subject to the due and efficient working of the line; and in case of his ceasing to continuously work it, the railway would have reverted to the Government. So that, according to the Crown Agents' draft contract, if the line fifty years hence was not worked, it would have been forfeited. It was a continuous forfeiture clause; but this is only a provisional forfeiture. We simply say to the contractor, "Until you build the line you shall not have the land, but when you do build it you may have it." We do not want bits of lines constructed; we are able ourselves to construct short sections, and what we want is a complete line, and it is upon that basis alone that

we are treating with this syndicate. In doing so, I submit that our first object should be to ensure that we get the thing we have entered into this bargain for; and I think by adhering to the clause the committee were doing so. I am sorry if I am taking an irrational view, but it seems to me to be the only rational view we can take. 'We will pay you as you go along, but we will not give you the fee simple of the land until we have the line completed.' It is said we would have a daily penalty of £100 to fall back upon, and that we could pay ourselves this out of the £10,000 deposit. Well, that would last one hundred days and no more, and where would you then go for your penalty? Will it be to Mr. Hordern—I don't know; or it will be some other company, or some other syndicate? At all events, it seems to me that £10,000 is not a sufficient guarantee for the efficient carrying out of this great work to completion. Hon. members say, "We want the line and we must have the line, and if we do not agree we shall lose it." If this is such a good speculation, are there no other people who might be induced to treat with us? Is Mr. Hordern the only person who will embark upon a paying speculation of this kind? And, if it is not going to be a paying speculation, I presume it will not be undertaken. But if it is likely to prove a paying thing are there not others besides Mr. Hordern who would undertake it on reasonable terms? It is suggested that it would be impossible for the colony itself to construct such a railway. It may be practically impossible, within the next seven years, to have it constructed with borrowed capital; but is it absolutely necessary it should be completed within seven years? It is very desirable no doubt; but is it not on the whole safer and better to proceed, if we can, carefully and surely, without any risk of collapsing and bringing discredit upon the colony? I am as anxious as any other hon. member that the colony should get this railway, if possible; but I must say that I think we ought to guard ourselves; we ought to deal with the contractor in a business-like spirit, and provide every guarantee we can possibly do that the contract will be carried out. It seems to me that this is one of the most important points in

the whole matter, that we should insist that the whole line and not a portion of the line shall be completed. I do not support the original clause because it was the decision arrived at by the committee—we are here dealing, with this question, as independent members; and I desire, whatever may become of the committee's proposal—and I see that a majority are against it—but, whatever the result, I do desire to protest against this departure from the committee's views, which I consider reasonable views, and views which I for one wish to take my stand upon.

The question was then put—That the compromise embodied in the 3rd paragraph of Mr. Hordern's letter be agreed to; and, a division being called for, the numbers were—

Ayes	18
Noes	3
Majority for				15

AYES.

Hon. M. Fraser
Mr. Mason
Mr. Brown
Mr. Burt
Mr. Crowther
Mr. Davis
Mr. Glyde
Mr. Grant
Mr. Highnam
Mr. Loton
Mr. Marmion
Mr. McRae
Mr. S. S. Parker
Mr. S. H. Parker
Mr. Randell
Mr. Shenton
Mr. Venn
Hon. J. G. Lee Steere
(Teller.)

NOES.

Hon. A. P. Heusmann
Mr. Hauncsley
Hon. J. Forrest (Teller.)

The compromise was therefore agreed to.

Paragraph 4.—“As to Compensation Clauses.”

“In the clauses 5 and 55 of the amended contract, it is provided that the Government shall pay all compensation monies payable in respect of the lands taken for the railway and to be granted to the contractor under clause 49. The Legislature are of opinion that the contractor ought to pay this compensation. I still think the Government ought to pay; but, as a compromise, I am ready to agree to a condition that the contractor shall pay the lessees the same compensation to which they may be legally entitled, if the Government undertake to pay com-

“pensation for the lands taken under clauses 3 and 4.”

THE HON. J. G. LEE STEERE moved, “That the compromise embodied in this paragraph of Mr. Hordern's letter be agreed to, with the exception that, in passing through any townsite, no greater width than one chain shall be taken by the contractor for the purposes of the railway, and, through freehold country, land no greater width than one and a-half chains.” He was informed by the Commissioner of Railways that in going through townsites a clear chain width was ample; and he thought some limit ought to be put upon the quantity of land taken, seeing that it was the Government and not the contractor who would have to pay compensation, if this compromise should be agreed to.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he was at a loss to understand why the Government should be called upon to pay compensation. The Government was quite willing to exercise its powers to resume the land, under the deeds of Crown grant, but it appeared to him that all compensation in respect of land required by the contractor for the railway should be paid by the contractor himself. He did not suppose the amount of compensation would amount to a great deal, except perhaps in going through the town of Albany; but, whatever it might be, he thought the contractor ought to be called upon to pay it. Our main object in giving this work to a contractor was to avoid expense to the country, and he thought himself that the compromise here proposed was an unreasonable one.

MR. CROWTHER thought it was a very fair compromise indeed, that the Government and the contractor should share the expense.

MR. MARMION said the construction of the first few miles from the starting point at Albany must result in the resumption of some very valuable land for the purposes of this railway, with its wharf, and station, and workshops; and of course the very fact of a railway going through it would enhance the value of the land and correspondingly increase the compensation money. He would suggest that the Government and the contractor should meet each other half-

way—that the Government and the syndicate should mutually agree to pay one-half, each, of the amount required for compensation. The syndicate on their part would then take care that no more land should be taken up than was absolutely required, and the Government on their part would take care that as little compensation should be paid as possible.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the compromise here suggested was a direct departure from the principle laid down and followed from the outset, namely, that, so far as this colony was concerned, the whole of this work should be paid for in land; and he could not depart from that principle. With regard to the other compromises proposed, they involved no principle, and he looked upon them as simply a question of making the best bargain we could with the contractor.

MR. VENN said he would say no more than that he cordially agreed with what had fallen from the Colonial Secretary.

MR. RANDELL regretted that any attempt should be made to alter the terms recommended by the select committee, in this respect. From the very first it had been decided that the compensation money should be paid by the contractor, which, it appeared to him, was only fair and reasonable. He begged to move, as an amendment, "That, in respect of paragraph 4 of Mr. Horderu's letter, the recommendation of the select committee, already adopted by this House, be adhered to."

MR. SHENTON said he was willing to do all in his power, within reason, to come to terms with the contractor, but he did think that as regards this compromise the contractor was asking rather too much. The Government were prepared to give him the benefit of the powers vested in the Crown as regards the resumption of any land which the contractor might require for the railway; and he thought, considering the large concessions already made to the Syndicate, they ought to be satisfied, and he intended to oppose this further concession.

MR. BROWN thought this question had been left an open question by the House, although not by the select com-

mittee. The select committee had recommended that the clause in the Crown Agents' draft contract, as regards compensation, should be adhered to, namely, that any compensation payable in respect of the lands entered upon and taken by the contractor should be paid by the contractor, and that the amount of such compensation should be assessed by the Commissioner of Railways. The contractor, however, in his draft contract, proposed that any compensation payable in respect of the lands taken for the purpose of the railway should be paid by the Government. This the committee had refused to agree to, and a compromise was now offered. He did not see how it would be a departure from any principle, as the Council had never yet laid down any principle on the subject. They were possibly now nearer coming to some definite arrangement with the contractor than they had ever been, and he should be sorry if at this stage there should be any hitch in the matter, so long as the compromise offered was fair and reasonable.

MR. VENN said they had not only to consider the land that would be required at the Albany end, but also—in the event of the contractor being allowed to commence at York, instead of Beverley—the land that would be taken up in passing through the townsite of York; so that this question of compensation was not a small matter at all. He intended to support the views of the Colonial Secretary on this point.

MR. LOTON said he also intended to support the amendment. He certainly thought the contractor ought to pay the compensation; for, in the first place, the land for which he paid compensation would become his own property, and, in the next place, the land for which he would have to pay compensation would be chiefly land required for stations and workshops, which would be of great value to him, and therefore should be paid for by the contractor himself.

THE HON. J. G. LEE STEERE suggested that the contractor should be asked to take land, at the rate of 10s. an acre, to recoup himself for the compensation money he might be called upon to pay. If this were done, there would be no ground whatever for saying that they were departing from the principle laid

down, that this work should be constructed upon the land grant system, and paid for in land. The colony would not feel it very much then, and, at the same time, would be giving the contractor what he wanted—as much land as he could get.

MR. BURT thought the contractor should be called upon to pay the compensation claims, and, no doubt, if Mr. Hordern's supporters in England only knew what a very small sum they would be called upon to pay, they would not insist upon the compromise now asked for. No doubt, judging from the value of land in England, they thought it would take perhaps a million of money. He would suggest that they should fix the limit of the total amount of compensation which the contractor should be called upon to pay, restricting his liability to a certain sum; or accept the suggestion thrown out by the hon. member for the Swan, that he should take it out in land.

The amendment proposed by MR. RANDELL was then put and passed, and the proposed compromise rejected.

Paragraph 5: "I regret that I am unable to agree to the amendments proposed to clause 47. This clause is virtually the same as that of the Crown Agents, and if the latter is considered preferable, I have no objection to its being substituted."

THE HON. J. G. LEE STEERE said he did not see how they were to discuss this paragraph, unless they had the contractor present, to explain his views.

MR. MARMION said hon. members were aware that the select committee had recommended that the land taken by the contractor in payment for the construction of the line should be taken, east or west, opposite each section, but that afterwards the contractor asked the right of free selection. Clause 47 related to the land to be given to the contractor in respect of the immigrants he introduced, and what he wanted was that these immigrants should, like himself, have the right of free selection.

The paragraph was then passed over, but reverted to next day (*Vide* p. 296).

Paragraph 6: "As to Clause 50, I am wholly unable to agree to the amendment to sub-clause (a), and to the other amendments proposed with the view of limiting selection by the contractor to

"the areas on either side of any particular section:"

MR. BROWN moved, "That in reference to Mr. Hordern's objections embodied in paragraph 6 of his letter, the Committee is of opinion that the points may be conceded, provided that half the frontage to the Railway in every section shall be reserved to the Government, and that no frontage so left to the Government shall be less than five miles wide in the direction of the meridian by 15 miles in depth." He would not press the motion now, but it would be as well to have it on the minutes.

MR. MARMION said it was a material point no doubt, but he was at present inclined to give way on it.

MR. LOTON said he intended to oppose it. He thought it was about time they began to consider how much further they were going to concede this, that, and the other, to the contractor. He thought they had conceded quite enough already, but they were now asked to concede a great deal more,—and more than the contractor himself asked for in his amended proposals. He considered it was about time they should now look to protect themselves, and not let the syndicate select all the best areas, and then perhaps leave the colony to finish the line itself, and work it. He intended to adhere firmly to the recommendation of the select committee on this point. Those who knew anything about the quality of the land to be selected knew very well that, when they allowed the contractor to select his 12,000-acre blocks where he liked, he could do so in such a way that the remaining portions would not be of much value to the Government or to anybody else, and would virtually belong to the contractor.

Progress was then reported, and leave given to sit again on Friday, 29th August.

The House adjourned at half-past four o'clock, p.m.