

## LEGISLATIVE COUNCIL,

Wednesday, 14th November, 1888.

Petition (No. 4): From Messrs. Stirling Bros. & Co., praying the House to pass an Act to amend the Law of Libel—Yilgarn goldfield, Parker's Reef, opening of road to—Soundings taken in Princess Royal Harbor—Mr. Harwood, Inspector of Works, duties of—Message (No. 6): Additional Goldfield Regulation—Message (No. 7): Forwarding report by G. W. Leake, Q.C., Police Magistrate, upon Mr. A. Cumming's Petition—Roads Bill: in committee—Patents Bill: second reading—Inquests on Infants Bill: motion for third reading—Scab Act (Inspectors) Amendment Bill: in committee—Carnamah Lakes, opening of sand bar—Hansard Report of Debate on Constitution Bill—Free Lease of Land in Kimberley District to Mr. Poulton—Adjournment.

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

## PRAYERS.

PETITION (No. 4): PROPRIETORS OF "DAILY NEWS," AND THE LAW OF LIBEL.

MR. SCOTT, rising, said: I have to present a petition from Messrs. Stirling Bros. and Co. I have acquainted myself with its contents, and ascertained that the language of the petition is respectful to this Council. The petition sets out that the present state of the law relating to libel tends to the ruination of persons following the calling of newspaper publishers—

THE SPEAKER: The hon. member must not go into the details of the petition. He must confine himself to the material allegations contained in it.

MR. SCOTT: I was just going to show what the contents of the petition are. It contends that, with the limited circulation of newspapers here as compared with the circulation of those in other places, the present state of the law in many respects is very injurious to them. The petitioners state that the newspapers here go to the full extent of their tether in the way of giving the public the utmost news and information that they can; and that, I do not think anyone will deny. They go on to say that their occupation is of a peculiarly risky one, depending as they do to a great extent upon others; and that at the present time they are liable to all sorts of actions at the hands of adventurers, who under present circumstances may bring ruination upon them.

MR. A. FORREST: Is the hon. member in order?

THE SPEAKER: It is not in order to go into a petition in detail.

THE ATTORNEY GENERAL (Hon. C. N. Warton): Read the prayer.

MR. SCOTT: If it is your ruling I will not enter into the matter any further, and will move that the petition be received and read.

Motion carried.

The petition was then read by the Clerk.

## ROAD TO PARKER'S REEF, YILGARN.

MR. HARPER, in accordance with notice, asked the Director of Public Works whether it was the intention of the Government to take any immediate steps towards opening a road to the new discovery of gold on the Yilgarn goldfield known as Parker's Reef, or to expend any of the funds set apart for procuring water on this goldfield in the said locality?

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) said this question was under the consideration of the Government, who intended to make certain proposals, which would be laid before the Legislature.

## SOUNDING WORK IN PRINCESS ROYAL HARBOR.

SIR T. COCKBURN-CAMPBELL asked the Commissioner of Railways whether he could lay on the table of the House reports of the sounding work lately undertaken in Princess Royal Harbor, together with any remarks he may have made upon it.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) said the chart would be ready in the course of a few days, and he should have much pleasure in laying it on the table, with a report on the whole subject.

## MR. HARWOOD, INSPECTOR OF WORKS.

MR. HORGAN asked the Director of Public Works,—

1. Whether it was a fact that Mr. Harwood, Inspector of Works in the Works Department, had drawn plans as an architect for the con-

struction of private residences and received tenders therefor, and had supervised the same.

2. Whether as such Inspector he should be permitted to compete with other practising architects.

3. Whether such Department had recently advertised for a Draftsman at £20 per month; and whether Mr. Harwood was capable of fulfilling the latter duty.

**THE DIRECTOR OF PUBLIC WORKS** (Hon. J. A. Wright) replied:—

1. Yes.

2. This officer received oral assurance previous to his receiving appointment from the Director of Public Works (the late Mr. Thomas), that so long as his official duties were not interrupted or interfered with, he could engage in other or outside practice. Mr. Harwood has never solicited employment nor advertised himself.

3. The Department has recently advertised for a Draughtsman. Mr. Harwood's duties are those of Inspector of Works and Draughtsman, but his time is mainly occupied by his duties as Inspector.

**MESSAGE (No. 6): ADDITIONAL GOLD-FIELDS REGULATION.**

**THE SPEAKER** notified the receipt of the following Message from His Excellency the Governor:—

"In reply to Address No. 9, of the 6th instant, respecting a further concession to the holders of protection areas on Goldfields, the Governor encloses copy of an additional Regulation which has been adopted and promulgated, and which the Governor trusts will meet with the approval of Your Honorable House.

"Government House, 14th November, 1888."

**MESSAGE (No. 7): FORWARDING REPORT BY MR. LEAKE, Q.C., ON MR. A. CUMMING'S PETITION.**

**THE SPEAKER** announced the receipt of the following Message from His Excellency:—

"In reply to Address No. 10, of the 12th instant, the Governor has the

"honor to forward, herewith, to the Honorable the Legislative Council, a report and other papers received from Mr. Leake, Q.C., the Police Magistrate of Perth, relative to the Petition of Alexander Cumming.

"Government House, 14th November, 1888."

**ROADS BILL.**

This bill was further considered in committee.

Clause 54—"It shall be lawful for a board, subject to the provisions of this Act, to take such land along a proposed line of road or for the purpose of an alteration of an existing road as may in the judgment of the board be deemed necessary for the purpose, not exceeding two chains in width; and also from time to time to enter upon any land whether fenced or unfenced adjoining or contiguous to any road, and take from thence any timber, earth, stone, sand, gravel, or other material that may in the judgment of the board be necessary for making or repairing such road or any bridge, culvert, fence, or gate thereon; and also from time to time to shoot upon and leave on such adjoining land any timber, earth, stone, sand, gravel, or other material that it may be necessary in the judgment of the board for the persons engaged in making or repairing such road, bridge, culvert, fence, or gate to get rid of. Provided always, that no line of road shall pass through any garden, vineyard, plantation of fruit trees, or cemetery, nor pass within the distance of sixty-six feet from any inhabited dwelling house without the consent of the owner thereof respectively or the special order of the Governor in Council, in which latter case the board taking the land shall pay to the owner thereof such compensation as the Governor in Council may direct. Provided that such compensation shall be estimated according to the then value of the land taken and to the damage (if any) caused to any building thereon or adjacent thereto, or occasioned by reason of the severance of such land from other lands of such owner, or by reason of such other lands being otherwise injuriously affected by the taking of such first-

"mentioned land as aforesaid. Provided further, that in the exercise of the powers by this Act granted as little damage as may be done."

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) moved to strike out the words "along a proposed," in the third line, and insert "as may be required for making a new." He did so for this reason: it was not quite clear, as the clause was now worded, that the intention was to allow the boards to take up land for forming a new line of road.

Amendment agreed to.

MR. PARKER said the clause, it would be observed, proposed to empower the boards to take up land to the extent of two chains in width, for road purposes. He thought that was too much, and he proposed as an amendment that the word "two," in the eighth line, be struck out, and "one" inserted in lieu of it. He thought that a road one chain wide was quite sufficient for a country road, especially as it was proposed to have separate routes declared for travelling stock. It would seriously injure a man's private property to have a strip of two chains in width taken out of it. That would be wider than the principal streets in the city of Perth, and they all knew that many country roads at present were nothing like a chain in width.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said this clause referred not only to lands held in fee simple but also to Crown lands. It had been his intention to have made it three chains, instead of two. He thought it was a great mistake to have these roads of insufficient width. These boards were representative bodies, and they were not likely to exercise this power capriciously, or to make a road wider than they thought was absolutely necessary.

MR. SHENTON thought the clause referred more particularly to roads passing through private land, and he certainly agreed with the amendment that a width of one chain was quite enough to take out of any man's private land for a public road.

MR. A. FORREST would oppose the amendment, for many reasons. It was well known to everyone in the country districts that many of the present roads were a disgrace to the people who first

laid them out. Most of the roads in the Southern and Eastern districts were too narrow altogether, especially when people were travelling with stock; and he thought the time had arrived when, in laying out new roads, we should take care that they were sufficiently wide for all purposes. The funds at the disposal of these boards were too small to enable them to macadamise their roads, and, left as they were in a state of nature, they soon became broken up if there was any traffic on them, especially if they were too narrow. He hoped the Government would stick to their two chains at least. If they made it three, it would have his support.

MR. RICHARDSON said no doubt private landowners would be sufferers by having a strip of two chains taken out of their lands for roads, but it must be remembered that the public had rights as well as private owners. It was a well-known fact that, generally speaking, country roads in this colony were too narrow for stock travelling, especially when the funds at the disposal of the boards did not admit of their being kept in good order. The result was that stock travellers, and teamsters wandered about, in and out, cutting up tracks in all directions. He thought it would be a fatal blunder in making new roads to perpetuate this system of long, narrow, confined lanes; and he thought it was worthy of consideration whether many of the existing roads ought not to be widened.

MR. E. R. BROCKMAN would support the amendment. Neither two nor three chains would be of any use for a stock route, while for all other purposes a road one chain wide was quite sufficient. There was a clause to come on which made special provision for stock routes. This clause referred to made roads, for ordinary traffic.

THE ATTORNEY GENERAL (Hon. C. N. Warton) pointed out that the words were "not exceeding" two chains. A board was not compelled to make every road that width.

CAPTAIN FAWCETT said that in his opinion one chain was quite sufficient for any road in this colony. Two chains would cut up a man's private land tremendously. In his own case he had lost eight acres of good land through a road

being only one chain wide; if it was two chains, he would have lost sixteen acres. He had driven a four-in-hand through the crowded streets of London, and he was sure they were not more than a chain wide; he had also driven a bullock-team in this colony, and he was sure we didn't want a road two chains wide for that.

Mr. VENN agreed with the Commissioner of Crown Lands that it was highly desirable—in fact, absolutely necessary—that all future roads made in this colony should be much wider than the present roads. It would have been much better if many of the existing roads in the Southern districts had been made wider in the first instance, instead of having tracks encroaching as they were upon private paddocks. He thought that on Crown lands especially all future roads should be three or four chains wide. As population and settlement increased, and the number of stock travelling increased, it would be absolutely necessary to have wider roads than the present roads; and no better opportunity for making provision for future requirements would occur than the present, when land was plentiful and comparatively cheap.

Mr. MARMION said he thought the clause applied to existing roads as well as to roads yet to be made; and that these boards would be at liberty to take another two chains to widen existing roads if they liked, and compel the owners of land to put back their fences. This would be a very serious matter. The clause said it shall be lawful for a board to take land, not exceeding two chains in width, not only for making a new road, but also “for the purpose of an alteration of an existing road.”

Mr. SHOLL agreed with the hon. member for Fremantle that the clause referred to existing roads as well as to new roads, and he thought it was necessary to limit the width of any road made through private property to two chains. It would never do to allow these boards to add two chains to the width of existing roads.

THE ATTORNEY GENERAL (Hon. C. N. Warton) thought the hon. member for Fremantle had hit a blot in the clause. There was a possibility that some judges might hold that the words “alteration of an existing road” applied

to widening the road, and, in that case, a board would be acting within its rights in taking two chains of land for the purposes of widening existing roads. He thought it would be advisable to limit the width of all roads running through private lands to a width of two chains. He not only agreed with the hon. member's suggestion, but was much obliged to him. He would move to strike out the words “not exceeding,” and insert “so that any road through land other than Crown land shall not exceed”—whatever width the committee might decide, upon the amendment of the hon. member for Sussex.

The amendment submitted by the Attorney General was adopted.

Mr. MORRISON, referring to Mr. Parker's amendment (limiting the width to one chain), said he had no objection to the Commissioner giving away as much Crown land as he liked; but to allow these roads boards to take away a strip two chains wide out of a man's private land, when one chain would be quite sufficient, was a power which he for one would object to. When people paid for their land, they paid for what they got, and it would be unjust to allow these boards to run a road two chains wide, perhaps for miles, through a man's private property.

Mr. BURT pointed out that in all lands alienated from the Crown, the Crown reserved the right to enter upon such land, and resume portions of it for public purposes, such as a road; and, whatever provision to the contrary might be made in this bill, it would not defeat the existing rights of the Crown. It was merely a question of whether this right of resumption should be exercised, to a limited extent, by these public boards, subject to the precautions provided in the following clauses of the bill against any arbitrary exercise of that right.

The committee divided upon Mr. Parker's amendment to strike out “two” and insert “one;” the result of the division being—

Ayes ... ..	7
Noes ... ..	16
	—
Majority against	9

**AYES.**  
 Mr. E. R. Brockman  
 Captain Fawcett  
 Mr. Morgan  
 Mr. Morrison  
 Mr. Sheulton  
 Mr. Sholl  
 Mr. Parker (Teller).

**NOES.**  
 Mr. H. Brockman  
 Mr. Burt  
 Mr. Congdon  
 Mr. A. Forrest  
 Hon. Sir M. Fraser, &c. &c.  
 Mr. Harper  
 Mr. Keane  
 Mr. Marmion  
 Mr. Pearce  
 Mr. Randell  
 Mr. Richardson  
 Hon. Sir J. G. Lee Steere, Kt.  
 Mr. Venn  
 Hon. C. N. Warton  
 Hon. J. A. Wright  
 Hon. J. Forrest (Teller).

**THE COMMISSIONER OF CROWN LANDS** (Hon. J. Forrest) moved a further amendment—to insert after the word “road,” in the 11th line, the words “which requires making or repairing.” The clause would then read: “and also from time to time to enter upon any land, whether fenced or unfenced, adjoining or contiguous to any road which requires making or repairing.” The object of this amendment was to provide that any material required for road making through freehold land shall only be taken for making or repairing the road through that land, and not for making or repairing a road a distance off. He thought no one would object to this amendment. If a man happened to have a nice gravel pit on his private land, it would hardly be fair to compel him to allow a board to take that gravel to make or repair a road miles away, in another part of the district.

**MR. MARMION** said the amendment had much to recommend it, but he could see cases where it would cause a lot of trouble and inconvenience. There might not be any other suitable material for road making perhaps within miles, except at this one particular spot. Timber, for instance; there might be a long line of road on which perhaps there was no timber.

**THE COMMISSIONER OF CROWN LANDS** (Hon. J. Forrest): You might cut down the whole of a man's timber at that rate, unless some restriction is made.

Amendment put and passed.

**MR. KEANE** moved, as a further amendment, that after the words “to get rid of,” in the 24th line, the following words be added: “so long as the said land shall be leasehold, and it shall not be lawful for the board to enter on freehold land, unless there shall be no waste or leasehold land of a suitable description within one mile of the site

“of such old or proposed new road.” He thought if there was no other argument to recommend this amendment, the words just dropped by the Commissioner, in reply to the hon. member for Fremantle, would be quite sufficient. Unless some restriction of this sort was provided, private owners would have no protection at all. The board might go on one man's freehold property, and take from it all the material required for making and repairing every road in the district. In building a railway, if a contractor entered upon a man's property for material he had to pay pretty considerably stiff for doing so; and he thought owners of land had a right to some consideration in this matter.

**THE COMMISSIONER OF CROWN LANDS** (Hon. J. Forrest) said he had hoped that the words he had just added to the clause would have obviated the necessity for bringing forward this amendment. Material for road-making now could only be taken from a man's land for use on a road going through his property, or contiguous to it. The words he had just introduced limited the power of the boards in this respect. It must be remembered after all that roads, as a rule, largely benefited the property through which they ran. There might be cases of individual hardship no doubt, but roads were necessary in the interests of settlement, and we should give every facility to these boards to make new roads, within reasonable limits.

**MR. RICHARDSON** was inclined to think that the Commissioner by his last amendment had limited the power of these boards rather too much—more so than it was proposed to do, by the present amendment. The Commissioner's amendment prevented them from obtaining material from private land except for a road going through that land or contiguous to it; the present amendment did not go so far as that: it allowed a board to go and get material on freehold land if there was none to be had of a suitable description on any leasehold land within a mile.

Amendment put and negatived.

**MR. RICHARDSON** moved the following amendment, in the 33rd line: to strike out the words “in which latter case,” and substitute in lieu thereof the following, “and further provided that in

"all cases of resumption by the board of land alienated or held under conditional purchase from the Crown." The object of the amendment was this: under the clause as now worded, compensation would only be granted in cases where a line of road passed through "any garden, vineyard, plantation of fruit trees, or cemetery." He proposed to make it apply to all cases where land was taken for a road out of a man's freehold, or land held under conditional purchase, if the land was taken without the owner's consent, by special order of the Governor in Council. He failed to see why the only compensation allowed should be in respect of a road passing through a vineyard or an orchard; there were other improvements which in his opinion ought to count. Land might be highly improved in many other ways, and, if the owner suffered any injury, he ought to be as entitled to compensation as the owner of a vineyard, or a plantation of fruit trees.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he was altogether unable to accept this amendment. It would be tantamount to taking away the powers of the Crown to enter upon lands alienated, and resume a portion of them for public purposes, without compensation. The Crown had that power now, but if this amendment were adopted it would be contrary to the present law of the land.

MR. SHOLL thought the proposal a very fair proposal. It seemed to him it would hardly be just to allow a roads board to enter upon a man's private land, that was fenced and cultivated, with a growing crop of wheat on it perhaps, make a road two chains wide through it, and pay the owner no compensation for the damage done.

THE ATTORNEY GENERAL (Hon. C. N. Warton) called attention to the wording of the proviso in which it was proposed to make this amendment. There were two exceptions to the exercise of the right of these boards to enter upon certain lands, such as vineyards and orchards: one was that they must not do so "without the consent of the owner"—there was no harm in that, surely; the other exception was that they must not do so (if the owner did not consent) without the special order of the Governor in

Council, and it was only in the latter case that any compensation was payable, and the amount of compensation, if any, was to be fixed by the Governor in Council. If the amendment were adopted, the owner of any freehold land, although he might give his consent to a board to enter upon his land, would be able to demand compensation. That was contrary to every principle of the law of compensation. As the clause now stood, if the owner of these improved lands specified in the proviso did not give his consent, and the Governor sanctioned the entry by the board upon his land, the owner was entitled to demand compensation, the amount of which if any—the clause said "if any"—would be determined by the Governor in Council. But the hon. member who moved this amendment wanted to apply the same rule to all freehold land, whether the owner assented or dissented to the action of the board.

MR. KEANE wanted to know why the same rule should not apply to other improved lands besides vineyards and gardens. Land with a water frontage might be ruined in value to the owner, by having a road alongside cutting off the water frontage. Yet this man would be entitled to no compensation.

MR. BURT said he was utterly unable to follow the arguments of some hon. members. The effect of this amendment would be to allow compensation for any land taken by a roads board for the purposes of a public road, whereas in no other case of resumption of land for public purposes was any compensation allowed under the law. If the Government wanted to make a railway through a man's land, whether that land was fenced or unfenced, improved or unimproved, they took the land they required, without compensation, under the powers reserved in every deed of grant. Why should not the same principle apply to roads? The Crown had the same powers of resumption in respect of roads as they had in respect of railways, and why should the principle of no compensation be departed from in the case of roads? Why should a man whose land was traversed by a road get compensation; and his next door neighbor, whose land was traversed by a railway, get no compensation? As to the relative value of a road or a railway running

through a man's land, that depended upon an infinity of circumstances. There were lands in this colony that had been utterly ruined by being intersected by a line of railway, and there were others which possibly had been benefited by it. So it was with roads, and there was no reason whatever why compensation should be given in the case of a road, and none in the case of a railway. Moreover, let hon. members look at the precautions with which this taking of land by a roads board was surrounded. In the first place the board had to pass a resolution in favor of taking the land; that resolution had to be notified by the board for three months in the *Government Gazette* and in some newspaper circulating in the district; at the expiration of that three months the board had to apply, through the Commissioner of Crown Lands, for the confirmation of the resolution by the Governor. Before doing so, the board must give the owner and the occupier of the land intended to be taken one month's notice, in writing, of the resolution of the board. Unless the Governor confirmed the resolution the board could not take the land. Nor was this all which the board would have to do. In the event of the land being taken, the owner or occupier could call upon the board to erect a sufficient fence along the land intended to be taken, on both sides of it, and to put up any necessary gates—which was more than any owner could demand when his land was taken for the purposes of a railway.

MR. RICHARDSON said the argument of the hon. and learned member for the North amounted to this: because a wrong or injustice was done in one case, it was only right it should be done in all cases,—if a glaring injustice might be done in the case of a railway, it was only right and proper that glaring injustice should be done in the case of a road.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) asked the hon. member for the North (Mr. Richardson) what would be the effect of the amendment in the hon. member's own part of the colony—the Southern districts, where nearly all the land had been alienated? The effect would be this: no road could be made there at all without compensation. As to injustice, he saw no injustice about the clause. People who bought land from the Crown did

so with a full knowledge,—it was clearly set forth in the deed of grant—that the Crown reserved to itself power to resume any portion of that land, at any time, for public purposes. This right of resuming land for roads had existed here since the foundation of the colony, and he did not know of a single case in which compensation had been granted.

MR. RICHARDSON: Why is it granted in the case of vineyards, gardens, plantations of fruit trees, or a cemetery?

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest): Simply because such lands are exempted in every Crown grant.

MR. H. BROCKMAN said he should like to point out that this clause as it now stood might in some instances give a board larger powers as regards resumption of land than those reserved by the Crown. Under a deed of grant, power was reserved by the Crown to resume any portion of the land, but to the extent only of one-twentieth; but there was no limitation as to the quantity of land to be taken by a roads board. A large extent of a man's land might be already resumed for a railway and other public purposes, and by the time the roads board had done with it there might be more than one-twentieth of it resumed.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he proposed to remedy that, later on.

MR. H. BROCKMAN thought the amendment would only apply in cases where a board took land in excess of the one-twentieth which was reserved for the Crown, and which the Crown had the right to resume without any compensation.

MR. MORRISON thought the clause ought to include other improvements besides a vineyard, or an orchard, a garden, or a cemetery. It was not everyone who went in for a cemetery on his property. Why not include mills, sheds, tanks, irrigation works, and other improvements?

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest): Simply, as I have already explained, because vineyards, orchards, gardens, and cemeteries are specially reserved in every deed of grant.

Question put—"That the words proposed to be struck out stand part of the clause."

Committee divided—

Ayes ... ..	8
Noes ... ..	9

Majority against 1

AYES.	NOES.
Mr. E. B. Brockman	Mr. H. Brockman
Mr. Burt	Captain Fawcett
Mr. Congdon	Mr. Keane
Hon. Sir M. Fraser, <i>s.c.m.g.</i>	Mr. Morrison
Mr. Randell	Mr. Pearce
Hon. C. N. Warton	Mr. Shenton
Hon. J. A. Wright	Mr. Sholl
Hon. J. Forrest (Teller).	Mr. Venn
	Mr. Richardson (Teller).

Question put—"That the words proposed to be struck out be struck out:"

Committee divided again, with the following result:—

Ayes ... ..	10
Noes ... ..	8

Majority for ... 2

AYES.	NOES.
Mr. H. Brockman	Mr. E. B. Brockman
Captain Fawcett	Mr. Burt
Mr. Keane	Mr. Congdon
Mr. Morrison	Hon. Sir M. Fraser, <i>s.c.m.g.</i>
Mr. Pearce	Mr. Randell
Mr. Scott	Hon. C. N. Warton
Mr. Shenton	Hon. J. A. Wright
Mr. Sholl	Hon. J. Forrest (Teller).
Mr. Venn	
Mr. Richardson (Teller).	

Question—"That the words proposed to be inserted, be inserted."

**THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest):** Sir—before that question is put, I should like to say a few words. I am sorry to see so little real interest taken in an important matter like this, by many members. Instead of coming in, and taking part in the divisions, they stand in the lobby looking on, and refuse to vote one way or the other. If the intention is to show that they don't want this bill, why not say so? They have had an opportunity of doing so. They have allowed it to pass its second reading, and to go into committee, up to the 54th clause, and now they adopt these tactics: when a division takes place upon an important principle they stand outside, in the vestibule, looking on at the division. This amendment is not only useless—for you cannot take away the rights of the Crown to resume land for this purpose—it is worse than useless; it will interfere very seriously with the efficiency of the bill. Where are

these boards to get the money to pay all this compensation money? There are districts in the colony where they could not make a chain of road without being called upon to pay compensation. They would require a very heavy tax of some kind to provide the necessary funds. If hon. members do not like the bill, or do not want it, let them say so. We shall then understand the position we are in. But so long as the bill is before the House, I hope members will give their attention to it, take some interest in it, and let us get through it, in a workmanlike manner.

**MR. RICHARDSON:** It appears to me that the only interest which the hon. gentleman in charge of the bill wants us to take in it, is such interest as will always coincide with the views of the Government. The hon. gentleman says he considers the amendment worse than useless because it runs contrary to the power reserved in the Crown of resuming land for public purposes, without compensation. But I would point out that the hon. gentleman himself has already moved and carried an amendment that interferes with this right of the Crown, by providing that road boards—which in this matter are supposed to be vested with the same power of resumption as the Crown—shall not enter upon any private land for the purpose of obtaining material for road-making except for such road as runs through the land. The hon. gentleman seems to think that unless we accept his views on every point, or the views of the Government, we do not wish to see the bill pass. We do wish to see it passed. But we want such a bill passed as will not perpetuate a glaring injustice upon the owners of property, who have shown themselves good and useful settlers, by doing all they can to improve their lands, and at the same time doing their duty to their country; we want a bill passed that will protect these owners of property from the caprices of these roads boards, the members of which are only human after all. All we ask is a fair and reasonable compensation for any actual injury done to the land. [The Commissioner of Crown Lands: Not for any injury, but for the land itself.] Say that a man owns 3,000 acres, with a river frontage, and a board chooses to make a road all



along that frontage, depriving him of his riparian rights, is not the value of that land depreciated thereby at least a hundred per cent. ? In fact, the injury inflicted might amount to thousands of pounds, and yet the owner of this land would not be entitled to a shilling compensation. I really cannot see why there should be such virulent opposition to this amendment.

THE ATTORNEY GENERAL (Hon. C. N. Warton) : Sir Thomas Campbell— I agree to a great extent that it would be unreasonable for the Government to expect hon. members on that side of the House to adopt every word or suggestion coming from this bench. But we must draw a distinction between those matters which are of first importance and those which are not, between matters which involve a principle and mere matters of detail. We have brought forward a bill which to the best of our judgment is suited to the requirements of the country; we have shown no disinclination to accept amendments coming from that side of the House or any side of the House, which we think may improve the machinery of the bill; but the amendment now before the committee is such a very serious one, involving such an important principle, that, if it is carried, we must very carefully consider whether we should go on with the bill or not. I am sure that members are too fair and large-minded and of too generous a disposition to inflict a deadly blow upon a bill of this nature, at this stage. This bill is not the outcome of any hastily-conceived idea on the part of the Government. It was largely recommended by a Commission of eminently practical men; it had the benefit of being carefully drawn up the hon. and learned member who now represents the North; it has been referred to all the roads boards in the colony; it has been before the House on two if not three previous occasions, and it has been very carefully revised, according to our lights, and to the best of my humble abilities. If this amendment, which strikes a deadly blow at an important section of the bill, is confirmed, I consider it will be my duty, as the adviser of the Government, to say that the spirit of the House is such that we cannot go on with the bill. I say it with all kindly feeling, and without the

slightest shade of irritation, that this is a matter of such very grave importance in our opinion that, if carried, it will in all probability kill the bill. We do not expect any body of gentlemen to follow slavishly every word and every suggestion coming from this side of the House, but it must be remembered that, as the Government of the country, it is in our discretion, as it is part of our responsibilities, to decide the points upon which a bill of this kind must stand or fall.

MR. PEARSE did not think it would be right to give these boards powers which the Governor in Council could not exercise on behalf of the Crown. Some limit ought to be put upon their powers of taking private land. The Crown, it appeared, reserved to itself the right to resume one-twentieth of any grant of land, but, supposing that right had been already exercised to the full, would these boards still have power to take more land? He did not think they ought to have such power.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he proposed introducing a section guarding against that.

MR. BURT again pointed out that this right of taking land by any road board was hedged round with such precautions as practically to preclude them from doing any serious injustice to any owner. The same right had been in existence for the last forty years. The same provision was contained in the 10th Vict., No. 19. This was simply a consolidation of the existing law, and the incorporation in this bill of the general law as to the resumption of land for public purposes without compensation. Why should they seek to introduce into this bill a principle that was repugnant to that adopted in all other cases of land resumed for public purposes? It was said that thousands of acres might be ruined, water frontages cut off, and that these boards would be doing all sorts of improper things. Why did not hon. members, instead of dealing in imaginary grievances, cite some case where any actual injury had been done by the improper or capricious exercise of this power in the past? [Mr. RICHARDSON: The law of libel.] They were free from the law of libel in that House, and not a solitary instance of improper action on the part of any road board, in the ex-

ercise of this power, had been cited. In default of such instances, he could not understand why this occasion was taken to endeavor to set up a special law of compensation in respect of the resumption of land for road purposes alone. If anyone in this colony had raised his voice against the powers of the Crown under the arbitration clauses of the Railway Compensation Act, he thought he might fairly say it was himself. But the House would not listen to him at the time. Members, to a man, went against him, and especially country members, who would not hear of compensation, upon any ground. But now, because a roads board was to exercise the same right of resuming land for road purposes as the Commissioner of Railways exercised in resuming land for railway purposes, members would be satisfied with nothing but compensation. Surely that was inconsistent.

MR. RICHARDSON did not see the force of the argument at all. Because we had a law that was working injury in various directions, was that any reason why we should be debarred from improving it in some respects? As to citing instances of caprice and personal spite on the part of any particular road board, was it likely that members were going to do that? He was not going to do so, to gratify anybody's curiosity. They were told these things were always done on public grounds for the public good, that these roads boards never acted capriciously, nor in the interests of any particular members of the board—they couldn't do such a thing. It was rather curious that the very next day after he had called attention to the way short notices of a special meeting—at which only a few members might be present, the others not having received their notice—might work harm, by being abused, a case in point was brought to his notice. These boards consisted of men who were only human, after all, and the public had a right to be protected against the arbitrary exercise of such great powers as were here placed in their hands.

MR. MARMION said he intended to support the Government in this case. It appeared to him that these country land-owners wanted to take as much as they could and give nothing. They objected to be taxed for the upkeep of their roads;

but, if it came to doing them any injury in any way, they wanted compensation at once. It was a policy of take all you can but give nothing. The Crown already possessed the power to take land for roads without compensation, and why should not the same power be transferred to these boards? He would not increase the powers of the Crown in this respect, but he would maintain them unimpaired. It seemed to him, as pointed out by the hon. and learned member for the North, that every proper precaution was taken to prevent these boards taking any land in an arbitrary fashion.

Question put—"That the words proposed to be inserted, be inserted."

A division being called for, the numbers were—

Ayes ... .. 9

Noes ... .. 14

Majority against ... 5

AYES.	NOES.
Mr. H. Brockman	Mr. E. R. Brockman
Captain Fawcett	Mr. Burt
Mr. Keane	Mr. Congdon
Mr. Parker	Mr. A. Forrest
Mr. Pearce	Hon. Sir M. Fraser, K.C.M.G.
Mr. Shenton	Mr. Harper
Mr. Sholl	Mr. Marmion
Mr. Venn	Mr. Morrison
Mr. Richardson (Teller).	Mr. Randell
	Mr. Scott
	Hon. Sir J. G. Lee Steere, Kt.
	Hon. C. N. Warton
	Hon. J. A. Wright
	Hon. J. Forrest (Teller).

MR. MARMION moved that progress be reported, and leave asked to sit again. Agreed to.

Progress reported.

#### PATENTS BILL.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said he had already explained the object of this bill, which was designed to cheapen the cost of patenting inventions; but, as the House was counted out, his motion was not formally put at the time. It was unnecessary he should again explain the provisions of the bill, but he might state that it was taken to a great extent from the South Australian law, and that in adapting it to local circumstances he had been much indebted to the assistance of the Registrar of Patents, whose suggestions he had had much pleasure in embodying in the bill.

Motion agreed to.

Bill read a second time.

## INQUESTS ON INFANTS BILL.

On the order of the day for the third reading of this bill,

MR. RANDELL moved that the order be discharged, and the bill read a third time that day six months. He did this in order to record his protest against what he thought was an unprecedented measure, and contrary to the general spirit of modern legislation. He believed it would inflict much unnecessary hardship and pain upon a number of people, and that it would not accomplish the object which its supporters had in view. For these reasons he desired to enter his protest against this class of legislation—legislation which had been attempted in that House before, but been promptly vetoed by the Secretary of State. Having been absent on the occasion of the second reading of the bill, he took the present opportunity of expressing his objections to it.

MR. A. FORREST said he should have much pleasure in supporting the amendment. He regretted very much he had not been in the House on the second reading, or he should have opposed it. The bill in his opinion was not required, and it would entail considerable expense and annoyance upon many poor people. He thought it was unnecessary to inflict all this unnecessary pain upon parents who had lost a child. In ninety-nine cases out of a hundred, parents felt the loss of their children very keenly, without inflicting further pain upon them, by compelling them to have an inquest and all this paraphernalia. He was sorry that such a bill was about to be placed on the statute book.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said he quite agreed with the hon. member who had just sat down that in ninety-nine cases out of a hundred parents took good care of their infants, according to their lights. But there was the hundredth parent somewhere, who required to be looked after. [Mr. A. FORREST: Therefore we must annoy the ninety-nine.] Generally speaking, no doubt there was respect for life in every civilised community, yet there were murderers. There was respect for property, yet there were burglars. The bill had been strongly recommended by the medical faculty here, and it was en-

titled to the respect and consideration of the Legislature for that reason.

MR. SCOTT said he felt constrained to make a few more remarks with regard to the bill, which had met with this unexpected opposition at this stage. He thought when they found the medical profession unanimous on a subject of this kind, there must be some crying necessity for some measure of this sort—though not more so, perhaps, here than elsewhere. Still it was a necessity; and if by means of this bill they could save one life, there would be ample justification for passing this law. Should it be found that such a law was no longer necessary, or that the bill was unworkable, they could either repeal or amend it hereafter. But he must say, and he did so unhesitatingly, the bill in his opinion would operate beneficially; it would work for good and not for evil, and tend to the better protection of infant life.

MR. PARKER did not think anyone would argue against the object of the bill, and the desirability of doing all we could to protect infant life. What he understood from the hon. member for Perth was that the Medical Board had recommended that some measure, for that purpose, should be adopted by the House. [THE ATTORNEY GENERAL: This very measure.] If the members of the profession had seen the bill as it now stood, it was more than the members of that House had. No one in the House had seen it since it emerged out of the committee stage, with its amendments; and he thought this debate should be adjourned until they had the bill reprinted. He moved accordingly.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said the only amendments made in the bill were such as had appeared on the notice paper for days previously; but members felt so little interest in the bill that hardly a quorum could be found to pass it through its stages. Now, at the last moment, hon. members seemed to wake up, and become deeply interested, and to regard the bill as a monstrosity. If it was still desired to have the bill reprinted, he had no objection.

MR. PARKER did not care himself whether it was reprinted or not. He thought from its first introduction that it

would be utterly useless, and he did not care a straw about the bill, one way or the other.

MR. MARMION seconded the motion for adjourning the debate. He never liked the bill, from the very beginning. He thought it would cause a great deal of unpleasantness and unhappiness, and would not have the result intended. He believed that before twelve months they would have demands made for its repeal. He was not in the House on the second reading, and therefore had no opportunity of expressing these views.

MR. PEARSE said he also was absent when the bill was read a second time, and he must say he thought it was a most objectionable bill. It would inflict grievous pain upon many bereaved parents, and quite unnecessarily, in his opinion, if the amendment were pressed to a division, he should certainly vote for it.

Debate adjourned.

#### SCAB ACT AMENDMENT BILL.

This bill, with the amendments of the select committee, passed through committee, without discussion.

#### SAND BAR AT CARNAMAH LAKES.

MR. KEANE, in accordance with notice, moved that an humble address be presented to His Excellency the Governor, praying that he would be pleased to place a sufficient sum of money on the Estimates for 1889, to cut a passage through the sand bar at the Carnamah Lakes near Dongara. The hon. member explained that the necessity for this work had been caused by the late floods, the place being now in a very dangerous state.

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) said he would telegraph to Mr. Macpherson to ask what he estimated the cost of the work at.

Motion agreed to.

#### "HANSARD" REPORT OF DEBATE ON THE CONSTITUTION BILL.

MR. HORGAN, in accordance with notice, moved the following resolution: "That in the opinion of this House it is desirable, with a view to enlighten the Parliamentary electors throughout the colony on the great question of the Constitution Bill, to send to each elector

a printed copy of the *Hansard* report of the debate on the second reading of that Bill." It was a notorious fact, he said, that the small newspapers of this colony gave very meagre and imperfect reports of the proceedings of that House, and especially so on this very important question. He thought it behoved the House to do everything in its power to enlighten the public on this momentous subject; and it was with that view that he moved. He thought that a copy of the *Hansard* report of the debate should be posted to each elector. There were about 5,600 electors throughout the colony, and, if a copy of the debate were sent to each of them, they would know what the opinions of members were on this important question. It might be urged that the expense of printing so many copies would be great; and, if the House preferred it, a sufficient number need only be printed to supply the various public institutions, and copies might be sent to the various police stations for distribution. He considered it a very serious matter that the discussion which took place in the House on this bill had not been more fully and accurately published.

CAPTAIN FAWCETT seconded the motion, and suggested that the *Hansard* report of the debate might be circulated in the *Government Gazette*.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said it was simply a question of expense. If the House wished that 6,000 copies of the debate, which was very lengthy, should be printed and posted, he presumed it could be done; but it would cost probably some hundreds. As to the newspaper reports, he thought, from a perusal of them, that one paper, the *Daily News*, had reported members' speeches very fairly indeed, and he believed these papers circulated throughout the colony. It would be useless, it appeared to him, to publish the *Hansard* report, as proposed, unless they also published the bill with it.

MR. PARKER presumed that at the approaching general election the questions for the country to decide would be, firstly, whether we should have Responsible Government or not, and, secondly, the conditions upon which we should accept it, and the fundamental principles of the new Constitution. The main question of whether we should have Respon-

sible Government or not—whether it was desirable—was not discussed in the recent debate at all, and the debate would throw no light on it. There was another objection to the proposal before them: if this *Hansard* report were published and circulated as suggested, members, instead of facing their constituents, and personally explaining their views to them, would simply refer them to *Hansard*. They all knew that the *Hansard* here was most admirably reported, and probably the constituencies would be surprised to find what capital orators their members were. But he thought it would be a bad precedent to establish. It would leave the door open, when a member thought he had made a particularly eloquent speech, to move that the *Hansard* report of it be printed and circulated among the electors, and, if this motion were carried, he would point to it as a precedent. For these reasons he thought it would be undesirable to adopt this resolution.

Motion put and negatived.

#### FREE LEASE OF LAND IN KIMBERLEY TO MR. POULTON.

MR. RICHARDSON, in accordance with notice, moved the following resolution: "That an humble address be presented to His Excellency the Governor, praying that he would be pleased to grant to Mr. J. G. Poulton, one of the pioneer settlers in the Kimberley district, a free lease of 100,000 acres for a term of 14 years, and similar to those granted to Mr. J. G. Brockman and the Murray Squatting Company." The principle of recognising conspicuous merit, indomitable pluck, and unflagging enterprise had before now been recognised by that House in a substantial way, when these qualities had been exercised in a direction tending to develop the resources of the colony and the progress of settlement. The gentleman whose claim he now asked the House and the Government to recognise was, as they all knew, one of the earliest pioneers of this Kimberley district, and, notwithstanding difficulties and privations, and perils which would have disheartened most men, he had pursued his work as a pioneer undismayed, and shown his faith in the capabilities of the district, notwithstanding the most serious drawbacks. It was men like Mr. Poulton who made districts like Kimber-

ley, and such indomitable pluck and enterprise deserved public recognition. He hoped the House would give its cordial support to this address, and that the Government would offer no opposition to it.

MR. A. FORREST said he had much pleasure in supporting the motion; and was proceeding to speak to it, when—

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) interjected that the Government agreed to it.

Motion put and passed.

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

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#### LEGISLATIVE COUNCIL,

*Thursday, 15th November, 1888.*

Petition of Messrs. Stirling Bros.: motion for printing—Excess Bill, 1887: in committee—Inquests on Infants Bill: adjourned debate on third reading—Church of England Trustees Bill: third reading—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

#### PETITION OF MESSRS. STIRLING, BROS., re LAW OF LIBEL.

MR. SCOTT, in accordance with notice, moved that the petition of Messrs. Stirling, Bros., and Co., presented to the House on the previous day, be printed.

Agreed to.

MR. SCOTT moved that the petition be referred to a select committee, to consider the prayer of the bill—the introduction of a bill to amend the law of libel; such committee to consist of the Attorney General, Sir T. Cockburn-Campbell, Mr. Randell, Mr. Marmion, and the mover, with power to call for persons and papers.

Agreed to.