

work the land cheaply, but the objection to that was that four 24-acre blocks might be taken up and the work concentrated on the richest part, no development work being done on any other portion of the property. Once amalgamation had been granted, the labour could be put on any part they liked. He would agree to that, provided they were block claims. It would be only right that people should have an opportunity of amalgamating areas so that they could develop the property, and know exactly where to put down their shafts on the underlay, but he would object to a man having four large leases and allowing three of them to remain idle.

**THE PREMIER:** That was what it would mean.

**MR. MORGANS:** People would be working with one shaft.

**MR. GREGORY:** Such would not be the case. When that time was reached the House would be considering the question again, and he dared say we might then allow the amalgamation of larger areas.

**MR. MORGANS:** They had driven 3,000 feet.

**MR. GREGORY:** What was proposed would, he thought, be unwise. It might serve in one or two cases, but it would not be a good thing in a new goldfield. He certainly thought 24 acres too small, but he considered that 48 acres ought to satisfy the leaseholders at the present time, and to grant 96 acres would defeat the object in view.

On the motion of the **MINISTER OF MINES**, progress was reported, and leave given to sit again.

#### ADJOURNMENT.

The House adjourned at 11.31 p.m. until the next day.

## Legislative Council.

*Wednesday, 5th October, 1898.*

Orchard Diseases Eradication Bill, first reading—Municipal Institutions Act Amendment Bill, first reading—Health Bill, recommittal, resumed and reported—Coolgardie Goldfields Water Supply Construction Bill second reading, Division—Adjournment.

**THE PRESIDENT** took the chair at 4.30 o'clock, p.m.

#### PRAYERS.

#### ORCHARD DISEASES ERADICATION BILL.

Introduced by the **HON. R. S. HAYNES** and read a first time.

#### MUNICIPAL INSTITUTIONS ACT AMENDMENT BILL.

Introduced by the **HON. D. K. CONGDON**, for the **HON. A. B. KIDSON**, and read a first time.

#### HEALTH BILL.

##### RECOMMITTAL.

Consideration (upon recommitment) resumed.

Clause 38—By-laws:

**THE COLONIAL SECRETARY** (**HON. G. RANDALL**) moved, as amendments, that the following be added as sub-clauses: "Fixing the charge for the removal of trade or house refuse," and "For prescribing the time of and precautions to be taken in the removal of pig-wash and other filthy matter."

Put and passed.

Clause 169—Obtaining destructors etc.:

**THE COLONIAL SECRETARY** moved that the following paragraph be added to the clause: "The obtaining or providing any such site, machine, machinery, or process shall be deemed to be a permanent work or undertaking within the meaning of the Municipal Institutions Act 1895." The object of inserting these words was, he said, to enable loans to be raised for the purpose of purchasing destructors; otherwise, the expenditure would have to be met out of the ordinary revenues of a municipality. The clause was suggested by the town clerk of Perth.

and the provision appeared to be desirable, as probably the purchasing of these machines would absorb a considerable amount of the annual revenue of a municipality.

Put and passed.

Clause 51—Prohibition of the sale of milk from diseased cows:

THE COLONIAL SECRETARY moved, as an amendment, that the figure "7" after "3" in line 9 be struck out. This had reference to the analysis of milk, and it was found that "3.7 per cent." ought really to be "3 per cent."

Put and passed.

Clause 76—Certificate of character required:

THE COLONIAL SECRETARY moved, as an amendment, that in line 1, between "every" and "lodging-house," the word "common" be inserted.

Put and passed.

Clause 180—Construction and maintenance of drains, cesspools, etc.:

THE COLONIAL SECRETARY moved, as an amendment, that in line 13 the words "in writing" be struck out. If these words were retained, the City Council or any local board would have to give very notice in writing, whereas notices were partly printed and partly in writing.

Put and passed.

New Clause—Board may supply receptacles (57 Vic., No. 33, sec. 3):

THE COLONIAL SECRETARY moved that the following be added to the Bill to stand as clause 39.

Whenever a local board of health shall determine by by-law to adopt a system of pans, receptacles for nightsoil, interchangeable or otherwise, or boxes or receptacles for the reception of rubbish or refuse, it shall be lawful for such board to supply the necessary receptacles, or any portion of them, out of its own funds; and the board may reserve the exclusive right to sell such pans, and may charge a reasonable price, not exceeding the cost of the same, and may recover the cost of the required number supplied to any owner or occupier who is under obligation to take one or more.

This provision has been in operation for some considerable time. It was taken from 57 Vic., which was the amending Health Act of 1893. This clause had been left out through the inadvertence of the draftsman.

HON. A. P. MATHESON: Why should the board have the exclusive right to sell the pans? Why should not any plumber

have the right to sell them? It would lead to absence of competition, and in consequence a higher price might have to be paid for the pans.

THE COLONIAL SECRETARY: The board would advertise for tenders for the supply of the pans, and persons would then be able to get the pans cheaper than otherwise. The pans must also be of one pattern. There was a provision that the board was not to charge more than the cost price of the pans. A person would be enabled to get a pan for 2s. or 2s. 6d. less than he would if he had to obtain it from a plumber.

Put and passed, and the new clause added to the Bill.

New Clause—Stagnant water in cellars, etc.:

THE COLONIAL SECRETARY moved that the section in the Act of 1896, providing for the compulsory removal of waste or stagnant water in or about any house or premises, be added as a new clause.

Put and passed, and the new clause added to the Bill.

New Clause—Cellars, asphaltting, etc.:

THE COLONIAL SECRETARY moved that the following be added as a new clause:—

162. The owner or occupier of any house to which there is a cellar shall, if so required by the local board, and within a time (being not less than fourteen days) to be specified by the local board, cause such cellar to be paved or asphaltted in manner directed by and to the satisfaction of the local board; and if such cellar be subject to the leakage of water thereinto, and there be no drain for the discharge of such water, such owner or occupier shall likewise, if so required by the local board, construct in such cellar where, when, and as directed, and to the satisfaction of the local board, a well for the gathering of such leakage, and upon completion of such well shall cause the same to be regularly and periodically emptied at intervals not exceeding twenty-four hours. Provided that in case the occupier of any such house has paved or asphaltted any such cellar, or constructed any such well, he may, subject to any agreement previously made between him and the owner of such house, recover before any two justices the moneys expended by him on such paving or asphaltting, or on constructing such well, or may deduct the same from any rent payable by him to such owner.

HON. F. T. CROWDER: Would "paving" cover the word "asphaltting"? If it did not do so, the word "cementing" would have to be included in the clause.

THE COLONIAL SECRETARY: According to the decision of the court, he believed "cementing" would be covered by the word "paving," and that bricks would also be regarded as paving.

Put and passed, and the new clause added to the Bill.

Bill reported with further amendments, and the report adopted.

# COOLGARDIE GOLDFIELDS WATER SUPPLY CONSTRUCTION BILL.

## SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: I recognise that I am dealing with a very important subject. Of course I am aware of the fact that the work itself has actually been agreed to by both Houses of the Legislature, practically unanimously, although there are differences of opinion on the question. I realise that this is a work which may make us all consider and think, inasmuch as it involves a further large expenditure from loan funds, and it involves the colony to that extent in indebtedness. I take it that the Legislature has been convinced—as I have been myself long before this—of the urgent need, if it of the absolute necessity, for a work of this kind for the further development of our mining industry. I myself, when the question was first introduced into another place, felt opposed to the scheme, but after more careful consideration and hearing the arguments used and going thoroughly into the question as to how far the Engineer-in-Chief had considered all the aspects of the question, and considering the subject in all its bearings, I felt satisfied that the work itself was necessary, and that the Engineer-in-Chief had brought to bear on this work his great ability, and had exhaustively inquired into all the circumstances connected with the work, so that he was able to report to the Government at the time the practicability of the scheme. There have been, as hon. members are aware, considerable differences of opinion over this question, and anyone inclined to be careful and cautious would naturally look fully and inquire into a work of this description. Remembering also that we have a considerable amount of debt now

for railways which have been constructed in this colony, still I think, taking everything into consideration and knowing how the gold mines have been developed by railway and great public works, none of us would wish to go back. Many of us think, perhaps, that less expenditure would have been better in many directions, and in some of the works that have been carried out; but that does not alter the great fact that the Government were called upon in the exceptional development in the gold-mining industry, to do the best they could to meet the exigencies. This has been done in a bold spirit. The Premier of the colony seems to have risen to the occasion, and, having felt that the destinies of the colony were in his hands, thought it incumbent on him to look everything carefully in the face and do the best he could for the country development. That policy has borne good fruit, although at the present time we may be experiencing a little cessation of the boom which has characterised us during the last three or four years. The cessation of the boom may be of use to us, as some people have observed, inasmuch as it will teach us to be cautious in the future, and look at every proposed public work carefully, and see whether it is absolutely needed or not. Having passed resolutions, it becomes necessary a Bill should be introduced for the purpose of authorising the construction of the work, and providing machinery for carrying it out; hence this Bill, sent to us from another place. The Bill had considerable attention in the Legislative Assembly; but I may mention I intend to submit one or two amendments which have been overlooked in another place. This is a great public work; and my own feeling in regard to it, at the present moment, is that scarcely any of us can estimate the beneficial consequences which will ensue from carrying a large body of water into the goldfields. Apart from the good done along the line of route, the supply will be of great service in connection with the railways. The experience of last year shows the necessity of providing an ample supply of good water for the locomotives, and the scheme will be one of the means of supplying water more suitable for the engines than can be procured anywhere but

tween the Darling Ranges and the goldfields. The water on the railway route—notably from the pool near Northam—has, I am informed, a very injurious effect on the boilers. It is desirable, on this account alone that a water supply should be provided; and the requirements of the goldfields and of the railways can be supplied at once. From what I have read and heard, I believe the people of the goldfields, or at any rate a large majority of them, desire this water for household purposes, and the carrying out of the scheme will liberate a considerable amount of water suitable for use in mining. I am perfectly in sympathy with the work, and believe it will be carried out, and carried out satisfactorily, and that its accomplishment will confer a great and lasting boon on the country, and tend to develop, much more rapidly than could be done in any other way, the goldfields already in existence. I am told that if water were plentiful at Coolgardie the probability is that at many places, within the town-site itself, material would be treated for gold with success. At Southern Cross, the supply would enable the people to accomplish much more than at present. I trust the Bill will receive the careful consideration of hon. members, and that no difficulty will be experienced in carrying it through this House. To reject this Bill would be nothing short of disaster to the colony. The whole of the business of the colony would be disarranged, if the measure were not to pass, after all the preparations which have been made, and after the offer which has been submitted for constructing and laying down the pipes to the goldfields. In addition to that—though I do not put this forward as a very strong reason—the carrying out of the scheme would give considerable employment, in this part of the country, to a large number of people, and would thus, at the present moment, or in the near future, meet a want which is apparent to all of us. The powers taken under the Bill are the usual powers in regard to the construction of railways and other public works. A plan is in the Chamber showing the catchment area of the weir at Mundaring. Clause 2 of the Bill gives power to construct and main-

tain reservoirs; and hon. members are aware that a reservoir is now being constructed at Mundaring.

HON. F. T. CROWDER: Without the Bill having been passed.

THE COLONIAL SECRETARY: Certain expenditure has been made on this reservoir, and, as Mr. Crowder observes, without the Bill having been passed. But resolutions have been passed authorising the construction of the work, the Government having assumed that hon. members would not go back from the position they have taken up. There would be no justification for delaying the work now; on the other hand everything should be done to hasten the proceedings as much as possible. The Bill in clause 3 gives power to the Director of Public Works to divert, intercept and store water within the catchment area. Clause 4 deals with unalienated land within the catchment area, and provides for its vestment in the Director of Public Works. Clause 5 gives power to take lands under the Lands Resumption Act of 1894, and clause 6 gives the Director of Public Works all the power and authority of a local board of health, for the purpose of making and enforcing by-laws for preventing the pollution of the waters within the catchment area. In this clause I propose to table an amendment that all the words after "Public Works" in line 1 be struck out, and the following words inserted in lieu thereof: "shall have all the rights, powers, benefits, and privileges"—and, although it is not mentioned here, the responsibilities—"vested in and exercisable by the council of a municipality under part 2 of the Water Works Act, 1889." That amendment is in consequence of a further amendment proposed in clause 8, by which it is proposed to add the words after the word "through" in line 2, "diminution in the flow of water caused by." This clause is an important one, inasmuch as it creates a new tribunal.

HON. R. S. HAYNES: You cannot get a Select Committee together to act.

THE COLONIAL SECRETARY: It would be necessary, without the fortifying words I have notified my intention of moving, in every small case to go in the ordinary way before the courts of the land; and it has been thought advisable, in such small cases in which compensa-

tion would have to be paid, that claimants should go before a tribunal consisting of a Select Committee of both Houses of Parliament. After considering the matter, I am perfectly in accord with this proposal, considering a Select Committee a perfectly safe and good tribunal before which to send cases in which are involved what are called "riparian rights."

HON. R. S. HAYNES: It means the plaintiff sitting on his own case.

THE COLONIAL SECRETARY: I take it that the Legislative Council will be a disinterested body. They have to consider the interests of the country, and they will take into account also the interests of the persons who appeal to them. Taking the proposal as a whole, we may rest satisfied it will be a perfectly safe and good tribunal before which to take cases involving the flow of water on land frontages. Of course, the Supreme Court could have been appealed to, but, under all the circumstances, no tribunal more satisfactory could be created for this one particular purpose than a Select Committee of both Houses of Parliament. The members of that Committee will be men sent to represent the country in Parliament; men possessed of intelligence and common sense, and, what is a very great thing, men acquainted with the business life of the colony in all its phases.

HON. R. S. HAYNES: It is Parliament's own claim.

THE COLONIAL SECRETARY: No very great evil will, I feel certain, be done to anybody by such a tribunal. I understand there is a much larger flow into the Helena River, some two or three miles below the Mundaring weir, than there will be into the reservoir; that, however, is beside the question at the present moment. What is before us is the consideration of this Bill, and the making of it a workable measure to be brought into operation as soon as possible, so that the contracts may be signed by the Government and the work proceeded with.

A MEMBER: It will ruin the country.

THE COLONIAL SECRETARY: I have no fear that the country will be ruined. All I have in the world, I may say, is invested in this colony, and I think the same remark applies to nearly all hon. members. I, for one, feel that this colony is certainly not going to the dogs, as some

people seem to hint. We have resources which are being developed every day, and new discoveries are being made, which ought to satisfy us and encourage us in our belief in the future of the country. At any rate, I believe that this is one great work which will, to a large extent, promote the well-being of the country, although, no doubt, it will considerably increase our debt. There is very little fear, however, but that all the water will be used that can be supplied, and will be purchased at a price more than sufficient to cover the cost of working and of interest. I believe a price will be obtained for the water, without being vexatious or burdensome, which will provide also for the sinking fund to liquidate the debt. Clause 9 provides for a copy of the plan already referred to being lodged by the Clerk of Parliaments in the Supreme Court, and also in the office of the Director of Public Works, the plan, in both cases to be available for public inspection, free of charge, at all reasonable hours. With confidence, and with hope, I submit this Bill to the House, and ask members to consider it favourably in the interests of the colony.

HON. R. S. HAYNES: Parliament has to a certain extent committed the Government to the construction of this work, but how far the Government are actually committed is a question on which we have not very much information. Clause 8 proposes to call into existence a new sort of tribunal, and an almost unworkable tribunal. I do not know whether those who drafted this Bill thought this clause out, but certainly, if it be passed as it stands, it will be absolutely useless.

HON. D. MCKAY: Courts of arbitration are common enough.

HON. R. S. HAYNES: Calling this tribunal a court of arbitration does not make it a court of arbitration. If people desire to go to arbitration, they must proceed under the Arbitration Act. It can this be called a court of arbitration? A court of arbitration consists of agents representing both sides. For example: if Mr. McKay and myself disagreed over something, and we wanted to go to arbitration, he and I would each appoint a representative, and those two persons would appoint a third, and make up a board of three. Under the clause, there is no ar-

bitration at all, because the tribunal is all one-sided.

HON. J. W. HACKETT: It is a court of umpires.

HON. R. S. HAYNES: It is a court of umpires, and a court of plaintiffs, and is opposed to the principles of justice. Parliament—and the Government only represent Parliament—say to a man, "I want to take your land, and I know that will injure you." The man says, "I cannot say that you shall not, because you have power to take it under the Act; but what compensation will you give me?" And Parliament replies, "We will settle that." Members should pause, and observe the absurdities of the provision, which means that the party or body taking the land is going to assess the compensation. Surely no person ought to be asked to submit to such a law as that, opposed as it is to the very essence and principles of justice. Again, a question may arise upon an application for compensation for interference with riparian rights, or rather with the flow of water. These are scarcely riparian rights, but, rather, a user or right to the supply of water from the river.

THE COLONIAL SECRETARY: Riparian rights apply to navigable waters.

HON. R. S. HAYNES: And also to creeks. Riparian rights are about as difficult a branch of the law as it is possible to conceive. It is a difficult subject, because the cases, although numerous, are not at all well tabulated or well digested. It is impossible to get a complete or absolute authority on the subject, and it is only after a good deal of very hard work in searching up the cases that you can arrive at what the principle of compensation is. It is a matter, so far as I can see, entirely for lawyers to first find out the principle.

HON. J. W. HACKETT: There are plenty of lawyers in the House.

HON. R. S. HAYNES: There are plenty of lawyers in the House, if they would attend Select Committees; but they will not do it.

HON. J. W. HACKETT: The lawyers get the "oyster."

HON. R. S. HAYNES: But the Government want the water and the "oyster" as well. Riparian rights are a matter for persons learned in the law to decide.

THE COLONIAL SECRETARY: It is more for practical men, I should say.

HON. R. S. HAYNES: I understand thoroughly that it would take practical men to assess the damage. But suppose a claim be brought against the Government for interference with the flow of water along a certain creek, would the hon. gentleman proceed on the principle of assessing the damages for everything the claimant had lost? Suppose the claimant had a right to erect a water-mill, would the hon. gentleman allow him prospective damages on account of his not being able to put up that water-mill? Or, if a water-mill were in existence and working, would the hon. gentleman allow damages because of the water being taken away from the supply of that mill? No doubt he would; and no doubt he would be wrong. An instance came under my own observation where such a claim was made. A mill was erected, and had not been used for some time; but directly the dam was built preparations were made for grinding wheat. Under such circumstances the hon. gentleman would, no doubt, say compensation should be allowed for damage sustained by reason of the water being taken away from the mill. That question has been thrashed out in a court of law, and the rights of the parties are well understood. I conducted most of the cases, before a court of arbitration, arising from interference with the flow of water in a certain creek, when all the persons who had frontages claimed against the contractors. I remember it was a very intricate matter to deal with, but we settled all right with the arbitrators without any difficulty. There really was no right to take the land, but the matter was settled by arbitration, and each person was satisfied. My objection to appointing a tribunal consisting of a Select Committee of both Houses of Parliament—and I do not refer to the present Parliament in any way—is that it opens the door to a little wire-pulling and log-rolling. The Colonial Secretary may shake his head; but while I do not say that wire-pulling and log-rolling would occur, I repeat that the clause opens the door to those evils. I challenge the Colonial Secretary, or any other member of this House, to quote an instance in any British dominion where

such a clause as this has been inserted in an Act.

HON. F. T. CROWDER: If the Government were not frightened, they would not introduce the clause.

HON. R. S. HAYNES: I challenge the Colonial Secretary to show me a precedent for such a clause, which is absolutely unique, and so far as the latter quality goes, reflects credit on the hon. gentleman, or whoever conceived the idea.

THE COLONIAL SECRETARY: Do not Committees of the British Parliament decide on railway works?

HON. R. S. HAYNES: Not with regard to compensation.

THE COLONIAL SECRETARY: Yes; with regard to compensation.

HON. R. S. HAYNES: I never heard of it.

THE COLONIAL SECRETARY: There have been hundreds of cases.

HON. R. S. HAYNES: I am not aware of any instances where the British Parliament have so decided. There is a Land Act in operation in England, and it may be the British Parliament have decided compensation on petition. But here you are constituting a Select Committee of, say, ten members, a sort of court; and it is easy to see that whoever drafted the clause has not fully thought out its effects. How would the decrees of the tribunal be carried out? When arbitrators give a decision, they give it in writing; and if the parties do not obey that decision, a rule of court can be obtained to enforce the decision like a judgment in an action. But how is the decree, or order, or decision, or whatever you may call it, of this new tribunal to be enforced?

HON. J. W. HACKETT: It is an award.

HON. R. S. HAYNES: It is not an award; and I am not going to call it an award. It is a sort of ukase; an award being something decided by two persons appointed to represent each contending party. Here it is an order, or ukase, given by the party seizing the land.

THE COLONIAL SECRETARY: If the award is approved of by Parliament, money will be voted.

HON. R. S. HAYNES: I never yet knew a plaintiff who would not like to be judge in his own case. Parliament, with a sense of its own responsibility, ought not to

pass this clause. There is no doubt that Parliament could say it would not give any compensation at all.

THE COLONIAL SECRETARY: There would be a rebellion then; would there not?

HON. R. S. HAYNES: I do not know that there would be a rebellion; but we can only trust to the good sense of the Government not to do such a thing. There would be no rebellion, but when we faced the electors again, we would find ourselves outside the House, and other people inside. This proposal is so much opposed to the principles of justice and of common sense, and is so crude and new, that I warn the House against passing it. It is provided that the award of this tribunal shall be final; but who is to summon the witnesses? A Select Committee only calls before it such persons as it thinks fit, and, mark you, before a Select Committee, a claimant would have no right to be present. The owner of the land would have to petition both Houses of Parliament before he could be present at the proceedings.

HON. F. T. CROWDER: Parliament might not be sitting.

HON. R. S. HAYNES: Parliament might not be sitting, and, in any case, the claimant could not cross-examine witnesses, although he might know that he could put a different construction on the evidence.

THE COLONIAL SECRETARY: The usual powers would be given to the Select Committee.

HON. R. S. HAYNES: I am speaking of the usual powers; and if one member of the Committee expressed the opinion that the claimant ought not to be present, the claimant would have to withdraw.

HON. J. W. HACKETT: There could be special standing orders, surely?

HON. R. S. HAYNES: There are standing orders and absolute rules which apply to all other cases, and why have special standing orders for this case?

HON. J. W. HACKETT: Because it is a special case.

HON. R. S. HAYNES: But it is proposed to take something from a man to which he is entitled, and in that respect the clause is more than special; it is unique.

HON. J. W. HACKETT: None of the difficulties you have presented are worth much yet.

HON. R. S. HAYNES: In the hands of the hon. member there would be no difficulties; and if he were president of the Committee, he would no doubt deal with the claim I have heard of, in the same way, perhaps, as I would. I do not like to see Parliament taking on itself to deprive a man of a right, however small that right may be. Let a right, however small, be taken away, and rebellion is caused in the mind, and it is no satisfaction to a claimant to be told he must go into a committee room, where he cannot call witnesses, where he cannot be heard, where he has no power to appoint his own representative, and where the decision of the tribunal is to be final. The Government of the day, who always have a majority, and always will have, may, if they wish, use influence and place what members they like on the Committee. The whole proposal is simply ruinous, and a source of great danger. What I complain about is the precedent of such a provision. I hope the Colonial Secretary will see that I am not endeavouring to raise a groundless scare.

THE COLONIAL SECRETARY: I hold an exactly opposite opinion about this clause.

HON. R. S. HAYNES: Because you want a man's land.

THE COLONIAL SECRETARY: I do not want his land.

HON. R. S. HAYNES: You want his water.

HON. J. W. HACKETT: The Colonial Secretary wants fair play, which cannot be got under the present law.

HON. R. S. HAYNES: The proposal is not fair play. I have had experience of arbitrations of all kinds, and the principle in vogue in New South Wales is that a claim is made, and the price required is sent in.

THE COLONIAL SECRETARY: The same as in railway matters.

HON. R. S. HAYNES: The preliminary proceedings are the same. The price is accepted or not as the case may be, and if it be not accepted, the case is set down before a judge and twelve jurymen. My experience in New South Wales was that, until the Act passed, the Government were

bled freely. But Parliament passed the Act, under which I have conducted cases. In one case with which I was connected a claim for £15,000 was made, and I believe some £7,000 or £8,000 was allowed. It was a legitimate claim, I think. The next claim was for £73,000, but nothing was awarded. It is perfectly safe to leave the matter to a jury. Once you get the jury to understand that they have the keys of the safe, and they can do what they like with their own money, then you may be sure the country will not suffer at their hands.

THE COLONIAL SECRETARY: This is a jury of a superior sort.

HON. R. S. HAYNES: A very high judge has said that no law should be passed that will make a party decide his own case. I hope the House will not depart from the usual method of proceeding in such cases as this. I have had three propositions sent to me, but I have not studied the three of them.

HON. J. W. HACKETT: Where did they come from?

HON. R. S. HAYNES: From Mr. Draper.

HON. J. W. HACKETT: Of what firm?

HON. R. S. HAYNES: Of no firm. He is a barrister.

HON. J. W. HACKETT: I thought he might be a solicitor for one of the applicants.

HON. R. S. HAYNES: He may be, for all I know. Hon. members will see that I have kept nothing back. I have no special reason for taking the course that I am taking. The first suggestion sent to me is that full compensation shall be paid to any person who suffers any damage by reason of any act or thing done in pursuance of this Act; and such compensation shall be assessed by a judge of the Supreme Court, sitting with a jury, two assessors to be appointed by such judge and subject to the provisions of the rules of the Supreme Court, 1888. It would be a fair way to have two assessors appointed by a judge, although my impression is that it would be better to allow the usual procedure of having two arbitrators (one each side) and an umpire; but I would say that a little more judgment should be exercised in the selection of arbitrators.



HON. A. P. MATHESON: I naturally intend to support this Bill, and I would like to say that I cordially agree with the Colonial Secretary as to what he said with reference to the probable advantages to the country which will accrue when this work is completed. I do not want to dwell upon speculative returns more than I can help, but we have before us at the present moment a striking instance of the economy that may be effected in the running of the Government railways if this scheme is carried through. The report of the Commissioner of Railways, which was laid on the table of the House yesterday, shows that close on £50,000 was spent on the provision for water required for running the Yilgarn railway. As a matter of fact, if it had not been for a most unexpected and opportune fall of rain at a time when we had no right to expect it, the probability is that this sum of money would have been doubled. This is an absolute fact which may be vouched for by people who have known the country for a great number of years. If that fall of rain had not taken place it would have caused an expenditure for railway water alone of £100,000, and I will leave it to hon. members to estimate how far that would go.

HON. F. T. CROWDER: It will not pay the interest on three millions.

HON. A. P. MATHESON: It would not do that, but it would go a long way in that direction. I want the House to bear something else in mind—that, in addition to this, we know that we will very shortly have the railway from Kalgoorlie to Menzies in the hands of the Government. At a low estimate, if the water for the Yilgarn railway line cost £50,000, the water for the Kalgoorlie to Menzies line will cost from £15,000 to £20,000 in addition, especially as the House has done everything in its power to prevent the extension of the Menzies line to the natural reservoirs provided by the Government for supplying water to that line. In these circumstances £20,000 or £25,000 would be a small estimate of what the water for the Menzies line might cost. It must not be assumed from that that these lines do not pay, because they do pay handsomely, even with the large expenditure for water. Any one can see that by reading the re-

turns; but I do not want to go into that question—all I need say is that the returns are very satisfactory. Not only for the reason I have given, but for that one reason amongst others, I intend to support the Bill; but I may say, as regards clause 8, I cordially agree and sympathise with what has fallen from Mr. R. S. Haynes. There is no doubt in my mind that clause 8, like many other things which have been rushed through the Legislature, has not received in any sense that consideration which it requires. I quite understand the motives which have actuated the insertion of the clause, and I sympathise with those who were instrumental in having it inserted. The clause has been put in the Bill as a matter of expediency, and we have been asked before now to pass other clauses in Bills as matters of expediency.

THE COLONIAL SECRETARY: This deals with only one subject.

HON. A. P. MATHESON: It deals with one subject as a matter of expediency. I go further and say that I have no sympathy with the particular claim to which the clause refers. But I think it is most undesirable that year after year special legislation should be rushed through the House for the purpose of dealing with special cases from the point of view of the Government. This is the point I dislike. Clause 8 is simply to facilitate the Government in getting rid of an awkward question, and I do not think the Government have any right to insert the clause in any measure to facilitate a thing of that sort. The ordinary courts of the country should be open to everyone. I do not think the legal capacity of ten members of either of the two Houses of Parliament would be equal to the legal capacity of the judges of the Supreme Court. Judges have been trained to these questions, and they have at their fingers' ends the points of law bearing on the cases which would crop up. Members of this House, it is fair to say, are quite incompetent to deal with these questions. They have not had the training which the judges of the Supreme Court have had, and they cannot look at questions from a legal point of view, and it is the legal point of view that has to be considered.

HON. D. MCKAY: No; the common sense point of view.

HON. A. P. MATHESON: When we come to the question of assessing damages, then the question of common sense comes in. I have said enough on this matter.

HON. S. J. HAYNES: As far as I am concerned, I do not agree with what has fallen from the Colonial Secretary in thinking that if this Bill does not pass it will be a great disaster to the country. I think it would be one of the greatest blessings to the country if the Bill were not to pass. So far as the Coolgardie water scheme is concerned, I have always opposed it. I differ from what has fallen from the Colonial Secretary, and also from what has been said elsewhere, that this scheme was passed practically unanimously by both Houses. As far as this House is concerned it was nothing of the sort. The Bill was opposed bitterly by a minority of this House, and although no division was called for, the reason was that the minority, finding themselves defeated on a matter relative to the Bill, did not call for a division on the main question.

HON. J. W. HACKETT: Very wisely.

HON. S. J. HAYNES: The scheme did not go through the House unanimously, and I claim for the minority that they were just as honest in their views as those who were in favour of the scheme.

HON. J. W. HACKETT: Nobody doubts that.

HON. S. J. HAYNES: As far as the scheme is concerned, I submit to the House that it is too great a work for a colony to undertake with only a handful of people and with a debt of £60 per head. Our prosperity is not what it should be, and if we add to our indebtedness we shall make matters worse. It has been said by some that future generations will look back with wonder at the fact that 170,000 people took in hand such a great scheme as this. I say the future generations will look back in wonder, because I have no fear in declaring that the scheme will turn out a bad experiment. I have, time after time, lifted up my voice against this water scheme, which I do not think is in the interests of the colony, and I think the rejection of this Bill—I do not intend to move its

rejection, but I shall vote against the second reading—would do more to restore the prosperity of the country than anything else.

HON. J. W. HACKETT: Its rejection would do a great deal of harm.

HON. S. J. HAYNES: I know this is one of Mr. Hackett's pet schemes. I think this scheme will only lead us into disaster. Our debt is now very heavy, and our population is too small to go into a work of this size. We have heard repeatedly in this House, and from a gold-fields member, that the scheme is not wanted.

HON. A. P. MATHESON: That hon. member is not in touch with the people.

HON. S. J. HAYNES: He represents a very large constituency, and a strong constituency, and his views are entitled to respect. He is posted up in regard to this matter as well as the hon. member is, or he ought to be.

HON. J. W. HACKETT: That member wants corrugated iron to come in free.

HON. S. J. HAYNES: So far as that is concerned, I see no objection to corrugated iron coming in free, but I am not going so far as Mr. Parsons did.

HON. J. W. HACKETT: Mr. Parsons was not serious; all through he had his tongue in his cheek.

HON. S. J. HAYNES: If the hon. member had been present he would have seen that Mr. Parsons was serious.

HON. J. W. HACKETT: I was present.

HON. S. J. HAYNES: I do not propose to say much more on this matter. My views on this subject are well known. I intend on this occasion to record my vote against the second reading of this Bill. I am sorry I did not do so before, but I shall on this occasion if there is only another member sitting with me. As to the remarks of Mr. R. S. Haynes, I cordially agree with all that he has said as to clause 8. It is a bad and vicious clause, and it is inserted in the Bill with the view of meeting a special case.

HON. R. S. HAYNES: Squelching some person.

HON. S. J. HAYNES: Yes; squelching some person. It is a slight upon our judges and juries. Suggestions have been made by Mr. R. S. Haynes with respect to assessing and looking into the claims made. The best mode would be to leave

those claims to three judges and let them call evidence. The judges here—like these throughout the British Empire—are above suspicion.

HON. R. S. HAYNES: A claimant could not get much from the judges.

HON. S. J. HAYNES: I do not like to see heavy damages against the Crown, but I think if the claim were left in the hands of the judges, justice would be done to the claimants. Clause 8, as the Colonial Secretary has said, is to meet a special case. We have had special cases before. Directly a Bill is brought into Parliament which affects the rights of private individuals, instead of relying on the machinery that governs usual cases, a special Bill is passed through Parliament on the subject, and people are not treated fairly. I shall oppose clause 8, and I shall oppose the Bill in its entirety.

HON. D. MCKAY: I intend to support the second reading of the Bill, because I have supported the Coolgardie water scheme from the beginning. Unless we pass clause 8, there will be some interference with the Director of Public Works, and I think clause 8 will be the means of saving litigation.

HON. F. T. CROWDER: From the inception of the Coolgardie water scheme, I have opposed it. Two years ago, when the Bill was brought before the House, to sanction the carrying out of the scheme, I gave very lengthy reasons for my opposition to the measure; and if hon. members desire to take the trouble they can look up what I said, and they will find that my predictions then were very true. What has taken place since has strengthened my objections to the scheme. Considering the position of the colony, I must say that a madder scheme was never introduced into the Legislature of any country in the world. I will not go so far as to say that the scheme will ruin Western Australia, because I believe Western Australia is too good to be ruined; still I have a conviction that the carrying out of this scheme will cripple the colony for the next ten or fifteen years. I do not wish to labour this question at all, because I know there is a majority who are prepared to follow the Premier and see this scheme through, and the Premier is going to carry on the scheme, whether it is going

to fail or not. We are now in straitened financial circumstances; we have yet three or four million pounds to borrow, and I doubt if the Government will be in a position to borrow that money. In financial circles at home at the present day people are looking with wonderment at the idea of the Government undertaking this huge scheme. No doubt, when the Government go to the English market again, they will find the money is not forthcoming. The failure of the last loan was due to this foolish scheme for trying to supply the goldfields with water, and I say that if ever the water does get to the eastern goldfields the people will not pay for it. The people will look upon the work as a national scheme, and will not pay for the water.

HON. A. P. MATHESON: Do you pay water rates in Perth?

HON. F. T. CROWDER: It is not a Government concern.

THE COLONIAL SECRETARY: Yes, it is.

HON. A. P. MATHESON: Then, why do you say that the people on the fields will not pay their rates?

HON. F. T. CROWDER: We are now sanctioning the expenditure of three and a half millions of money, which is going to run into something like four millions before the scheme is finished, for a population on the goldfields who are now drawing up a petition to be allowed to secede from Western Australia. We have heard in this House—and we have to take some notice of the remarks which have been made by Mr. Parsons, who represents a goldfields constituency—that the water is not required, and other members have also made the same remark. At the present time mining companies expend large sums of money in pumping the water out of their mines, and that water is going to waste.

HON. A. P. MATHESON: It is salt water.

HON. F. T. CROWDER: The people on the goldfields are in a position to obtain all the water they want. To think that this scheme is going to start 100 batteries in Coolgardie is ridiculous. If the Government had come forward and said, "We want a water supply for railway lines running to the goldfields," I could understand it. But the scheme is brought forward on the pretence of supplying the goldfields with water. If this scheme is

carried out, it will cripple Western Australia for the next ten years. The Colonial Secretary has told us that he has all his interests in this colony. Then I advise the Colonial Secretary to part with them at once, for they will not be worth much in five years. I intend to divide the House on the question, because the *West Australian* newspaper and certain persons, in criticising the remarks which have been made, have said that this scheme was passed unanimously in this House. I say it was not. I believe if a division had been called for the Government would have carried the scheme by two votes. As to clause 8, I look at it in this light: the Government are using the great power behind them for stopping people from obtaining justice—it is nothing less than that. We have at the present time a Supreme Court which can try such cases, and why should special legislation be brought forward to try claims in connection with this scheme? I hope the House will not agree to this clause, but will see that claims are dealt with by arbitration. I shall vote against the second reading.

HON. E. McLARTY: I desire to add a few words to this debate. I have been one of those who have supported this water scheme from its inception, believing thoroughly, as I do, that it will not only be a great boon to the goldfields, but will be a paying work. I feel satisfied from my observations during the few times I have visited Coolgardie, Kalgoorlie, and other centres, that those places cannot go ahead satisfactorily until they have a large population. We find men rushing to these places with the hope of obtaining gold, and then running away again. But as to there being any settlement—I mean a man having his wife and family there—it is impossible under the present conditions.

HON. F. T. CROWDER: They will not under any other conditions.

HON. E. McLARTY: I think they will. Seeing we have a long distance, from here to the eastern goldfields, of waterless country, and that the Government are running several trains a day, and seeing that Mr. Matheson has pointed out that there is an enormous expenditure in supplying water for the railways, which next year may be doubled, that alone is a strong point in favour of the scheme. So far as clause

8 is concerned—to which exception has been taken—I am not prepared to give an opinion as to its legal aspect, nor do I believe in the Government bringing forward a special clause to do an injustice to any one. If an injustice was to be done I should be opposed to such a clause, but I can hardly see how an injustice is to be done. The clause is not altogether a bad one. Mr. R. S. Haynes has said that these claims should be left to the judges to try, or for legal men to decide. I think it is a question of common sense, and surely out of the two Houses of Parliament a Committee could be selected capable of dealing with the claims. I cannot see any better way of overcoming the difficulty. From our past experience we know what the country has been subjected to. Cases have been brought before judges and juries, and damages assessed in many instances during the past few months, which have been something enormous, and out of all proportion and unreasonable. I hope in an important matter like this some other arrangement will be come to, so that the country will not have to run risks which it has had to run in the past. As far as I am able to judge, without giving an opinion upon the legal aspect, I see no reason why a Committee should not be selected from both Houses of Parliament which would give justice between the Government and the parties making claims against the Government. I cannot see, as Mr. R. S. Haynes has pointed out, that one party would be judging the matter. We could surely get men who have different interests, men who know something about land, to decide these points; and we could also have a number of members on the Committee with legal knowledge, because there are plenty of legal members in both Houses. A very fair Committee could be selected to do justice, not only to the country, but to those who might be deprived of any of their rights. I should be sorry to support the Government or Parliament in passing a Bill depriving any individual of his just rights.

HON. F. T. CROWDER: Why should claimants not appeal, as everybody else has to do in the present day?

HON. E. McLARTY: It was said by Mr. Crowder that a majority of this House would support the Premier in carrying

out this scheme, whether the scheme was right or wrong.

HON. F. T. CROWDER: I did not say the majority of the House; I said the Premier was determined to carry out the scheme, whether the scheme was right or wrong.

HON. E. McLARTY: The hon. member said a majority of the members of this House would support the Premier.

HON. F. T. CROWDER: Yes.

HON. E. McLARTY: If the majority of hon. members are of opinion that the work is not necessary, and that the country cannot afford it, none are so wedded to the Premier's views as not to have the courage and manliness to oppose the scheme. I have always supported this Coolgardie water scheme. When I seconded the Address-in-Reply I expressed my views plainly, and said I believed the scheme was the golden key to the prosperity of the colony, and that is still my opinion. It is one of the greatest works that has ever been undertaken for the benefit of the whole country. I intend to support the second reading of the Bill, and to give clause 8 the consideration it deserves when in Committee.

THE COLONIAL SECRETARY (in reply): A little misconception seems to have arisen in regard to clause 8. The object of the Government is only to create a tribunal to deal equitably with cases that come before it. Collectively or individually, the Government have nothing to gain by having a picked or improper tribunal; and, under the circumstances—and I take considerable responsibility on myself in this matter—hon. members will acquit me of any intention or desire to injure anybody. It is really the country, and not the Government, who are interested in this matter; and if £100,000 be diverted by the tribunal, the country, and not the Government, will suffer. The clause is really for the protection of the interests of the country; and my own opinion is that a tribunal selected or elected from both Houses of the Legislature will be a competent, disinterested, and honourable tribunal, before whom to send cases of the kind which may arise.

Question put, and a division taken, with the following result:—

Ayes	...	...	...	9
Noes	...	...	...	2

Majority for	...	...	7
Ayes.			Noes

Hon. H. Briggs	Hon. S. J. Haynes
Hon. D. K. Congdon	Hon. F. T. Crowder
Hon. R. S. Haynes	(Teller)
Hon. W. T. Loton	
Hon. D. McKay	
Hon. A. P. Matheson	
Hon. G. Randell	
Hon. W. Spencer	
Hon. E. McLarty	
(Teller)	

Question thus passed  
Bill read a second time.

#### ADJOURNMENT.

THE COLONIAL SECRETARY moved that the House, at its rising, do adjourn until the next Tuesday.

Put and passed.

The House adjourned at 6.10 p.m. until Tuesday, 11th October.