

LEGISLATIVE COUNCIL,

Monday, 29th September, 1879.

Expenditure on Roads from Roads Loan—Quarters for Postmaster, Busselton—Importation of Diseased Stock Bill: third reading—Free Grants of Land to Immigrants—Confirmation of Expenditure Bill: third reading—Message (No. 11): Volunteers—Point of Order—Adjournment.

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

PRAYERS.

EXPENDITURE ON ROADS, FROM
ROADS LOAN.

IN COMMITTEE.

MR. MONGER moved, "That in the opinion of this Council, the greater portion of the present expenditure on the roads is not required, and that it is advisable for the Superintendent of Roads to consult and act with the various District Roads Boards." The hon. member said he had brought the resolution before the House, in order that other members might have an opportunity of expressing an opinion upon the subject. He need not go over the ground he had already gone over the other day, but this he would say—an inspection of the work going on, on the York Road, convinced him that it would be perfectly useless; and he certainly thought if Mr. Higman would co-operate with the District Road Boards, it would be a great benefit to the Colony at large, and at the same time save himself a great deal of trouble. The way the work was now being done, if that officer had at his disposal the whole of the loan (£50,000) for the York Road alone, he would never be able to do it.

MR. BROCKMAN said he had recently travelled over the road referred to, and he could not agree with the hon. member. It appeared to him that the drains which were now being cut would prove of great service; the present drains were almost useless. He did not profess to be an engineer or a road surveyor, but he considered the work now being done on the York road very valuable work.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy), said he was at a loss to see what the hon. member who had brought forward the motion wanted.

He would seem to wish that the Superintendent of Roads should be put under the orders of the various District Road Boards.

MR. MONGER: No, Sir, I do not; but that he should consult them.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): He does that now, in every case, and he has received great assistance from them; but the hon. member cannot expect the Superintendent of Roads, who is a professional man, to be entirely guided by these Boards.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser): There is nothing so irritating to an artist, when engaged on a picture, than to have a person looking over his shoulders, and criticising his work before it is finished. The hon. member for York criticises the work of the Superintendent of Roads before it is completed; but I think if the hon. member waits until he sees all there is to be done on this line of road, he will very likely alter his opinion.

MR. MARMION: In principle, it appears to be the correct thing that the Superintendent of Roads should consult with the various Road Boards, and, if not to be guided by their advice, at any rate to hear what they have to say, and afterwards act upon his own responsibility. If, after the expenditure of the £50,000 it was proposed to abolish these Boards and to place the roads under the sole control of the Superintendent, then, no doubt, it would be wrong, in principle, to expect him to consult with the Boards; but this is not likely to be the case. After the expenditure of this money we shall have these roads under the sole supervision and control of the District Boards, and, that being so, it is but a natural conclusion that the Superintendent should consult with those who will hereafter have the supervision of the roads entrusted to them.

MR. BROCKMAN: Hon. members seem to think that the Superintendent is unwilling to co-operate with the Road Boards; from my own experience of him, as chairman of one of these boards, I think he is at all times quite ready and willing to co-operate with them. I therefore think this resolution is unnecessary.

MR. BURGESS said he had seen the work which was being done on the York road, and he considered it money thrown

away. We wanted all the value we could get for our money, but this was not the way to get it. The object in view when borrowing this money for the roads was to complete unfinished portions of our main roads, but at present it was not being expended for that purpose. If the money were made a present to us by the Home Government that would be a different thing; but the people of this Colony had to pay for it, and they had a right to expect that it should be expended properly.

MR. BROWN: As to the work of superintending the expenditure of the loan upon the various roads, it was decided by this House last year that a competent road surveyor should be got with whom the Government should consult as to the expenditure of the money. I think if we pass this resolution we shall be acting most inconsistently; for, instead of relying upon the professional skill of the official whom we decided should be engaged to supervise this work, we shall decide that, virtually, the matter is to be left in the hands of this Council. For my own part, I am perfectly satisfied to let the expenditure of this money remain in the hands of a competent professional man. We not only have a Superintendent of Roads who is a professional surveyor, but we have also at the head of the Works Department another professional gentleman, who has to confirm the work of the Superintendent. It is absurd for this House to fly in the face of these officials, and say 'this piece of work shall be done,' or 'that piece of work shall not be done.' If this resolution were adopted, the Superintendent could not act, except in concert with the various District Roads Boards. I quite agree that it is his duty to consult with these boards, who may be able to give him very sound advice, which may influence him in deciding upon the works to be carried out; and, as I understand he is now doing this, I feel some delicacy in moving the following amendment upon the resolution before the House, which resolution if carried would in my opinion be tantamount to a vote of censure upon the officers concerned. The amendment I have to offer is as follows: "That, in the opinion of this Council, consultation by the Superintendent of Roads with the

"Roads Boards of the various districts within which expenditure from the Roads Loan is being made, or in contemplation, would probably lead to a more judicious expenditure than if such expenditure were made without such consultation."

MR. S. S. PARKER considered it only right and fair to Mr. Higman to say that, on his first visit to York, he communicated with him personally, and he freely consulted with him as to the manner in which the roads work should be done. He then certainly formed a very high opinion of his abilities, and he was of the same opinion still; nevertheless, having subsequently travelled along the road with the Superintendent and seen the drains referred to, he (Mr. Parker) entirely condemned them. In fact, every person he had come across—with the solitary exception of the hon. member for the Swan—condemned the work. Mr. Higman had never communicated with the Roads Board of which he (Mr. Parker) was chairman.

MR. CAREY said it was clear that all practical men condemned the Superintendent's work so far as was at present observable on the York Road; at the same time he thought the Colony had a good man in Mr. Higman, and that the country was to be congratulated upon having secured the services of such a man. Nevertheless, he still thought it would be well if the Superintendent would place himself in consultation with such practical men as the members of District Roads Boards generally were. As to the amendment, it appeared to him to amount to the same thing as the original resolution.

THE COLONIAL SECRETARY (Hon. R. T. Goldsworthy): It appears to me that what hon. members want is that the Superintendent of Roads should communicate with the district boards. I may say that instructions have already been given to that gentleman to consult with these local bodies. Judging from what has been said by hon. members, who were also members of roads boards, in the course of the debate, the members of these boards, like doctors, differed.

MR. HARDEY said that, as chairman of the Perth Roads Board, he had had no conversation with Mr. Higman, but that he (Mr. Hardey) once volunteered

his services to accompany him to look at a portion of the road at the Causeway, and that was all the communication the Superintendent of Roads had ever had with the board of which he (Mr. Hardey) was a member. It appeared to him very necessary that there should be consultation between the Superintendent and the Roads Boards, otherwise the boards might be making provisions to carry out the very same work as the Superintendent. Unless they conferred together, he was sure there would be a great deal of misunderstanding between the boards and the Superintendent. There was another matter to which he wished to call attention, and that was the hurried manner in which tenders were called for and accepted, for road work; in one case (at Newcastle) the Superintendent accepted tenders which were now sub-let at one-third of the money, the result being that the country would have to pay two-thirds more for this particular service than if it had been done under the superintendence of the Roads Board.

MR. MONGER said, as to complaining of the work before it was completed, what was the good of crying out after all the money was expended? They might as well cry over spilt milk. He had had considerable practical experience during the last twenty years in the making of roads, and he failed to see the necessity for any great engineering skill or talent to make a road in a colony like this. If they had £80,000, instead of £8,000, set apart for the York Road, possibly the work might be completed as begun; as it was, it was merely throwing money away.

MR. PEARSE said he had not himself seen the road in question; but, as chairman of the Fremantle Roads Board, he would say this of Mr. Higman—that gentleman had expressed his perfect willingness to place his professional skill at the disposal of the Board, when required. He thought the amendment would meet the case.

The amendment was then put and passed.

QUARTERS FOR POSTMASTER, BUSSELTON.

MR. CAREY, in Committee of the whole House, moved, "That an Humble

"Address be presented to His Excellency the Governor, praying that the sum of £20 be placed on the Estimates to provide the Postmaster at Busselton with quarters." The hon. member said the sum asked for was so small that he did not think the Government would object even to the member for Vasse getting that much.

The motion was negatived on a division, by a majority of 9 to 2:

Ayes	...	...	2
Noes	...	...	9
Majority against			7

AYES.
Mr. S. H. Parker
Mr. Carey (Teller.)

NOES.
The Hon. G. W. Leake
The Hon. M. Fraser
Mr. Brockman
Mr. Burgess
Mr. Glyde
Mr. Hamersley
Mr. S. S. Parker
Mr. Pearse
The Hon. R. T. Goldsworthy (Teller.)

IMPORTATION OF DISEASED STOCK BILL.

Read a third time and passed.

FREE GRANTS OF LANDS TO IMMIGRANTS: REPORT OF SELECT COMMITTEE.

ADJOURNED DEBATE—IN COMMITTEE.

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said it would be in the recollection of hon. members that the debate on paragraphs 2 and 3 of the Select Committee's report had been adjourned in order that the opinion of the law officers of the Crown should be ascertained as to whether the proposed amendments in clauses 50 and 57 of the existing land regulations would affect the privileges of existing leaseholders, with respect to unconditional pre-emptive right to purchase. The Attorney General, who had since been consulted in the matter, was of opinion that present leaseholders, notwithstanding the amendments now contemplated, would, under the terms of their lease, be entitled to exercise all the rights and privileges at present vested in them; so that, therefore, the amendments would only affect those persons who hereafter took out leases.

MR. PEARSE asked whether the paragraph recommending the discontinu-

ance of free grants of land to immigrants would affect those immigrants who were now in the Colony, but who had not yet exercised their right to select a grant of land?

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said it would not.

The paragraphs (with a slight verbal amendment proposed by Mr. MAR-MION), were then agreed to.

Paragraph 4: "For some years the land around and about Northampton (Victoria District) has been reserved from sale, and only open to miners and those desirous of working mineral lodes beneath the surface. Your Committee desire the present restrictions removed, and the surface of the ground open for cultivation by its sale being allowed, although presumed mineral, a right being reserved to the Crown to dispose of and lease or sell all mineral lodes or metals beneath such surface. Whether or not the omission of the word 'precious,' in the reservation clause in regard to metals in the form of deed of grant, will suffice, is for legal opinion. Your Committee's desire is to allow the occupation and sale of the surface, retaining to the Crown a sole right to minerals and metals below."

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said that some years ago, when the Geraldton and Northampton railway was proposed to be constructed, the Government took the precaution to reserve from sale all the land within a certain distance of the town of Northampton, which was presumed mineral land; but, since then, it had been found that the result of this reservation was that settlement was thwarted, and, on the occasion of his recent visit to the district he found there was a very general consensus of opinion among the proprietors of mines in the locality that a great deal of the land in the neighborhood of Northampton might be profitably occupied and cultivated by the men employed in the mines. He had therefore brought the matter under the attention of the Select Committee whose report was now under consideration. As stated in the paragraph now before the House, it was just a question of law whether the desired object could be attained by omitting the word "pre-

cious" in the reservation clause in the deed of grant for mineral lots, which was as follows: "We do hereby save and reserve to us, our heirs and successors, all mines of gold, silver, and other precious metals, in and under the said land, with full liberty at all times to search and dig for, and carry away the same." The subject under consideration was a very important one, as affecting the interests of the district in question, and hereafter it might be found to be one of equal importance as regarding other districts where minerals were believed to exist, such as the Nicol Bay district.

Mr. BROWN said he felt very strongly indeed on this subject, and he thought it would be highly desirable to carry out the recommendation of the Committee. It was a subject to which the attention of the Commissioner of Crown Lands had been directed for a considerable time past—certainly more than twelve months—and he thought it was time the Government had made up its mind on the question. The subject had also been brought under his own notice as the member for the district concerned, and he had promised his constituents to do all within his power to obtain for them the rights which it was now proposed to confer on them. A great deal of dissatisfaction existed among the residents in the neighborhood of Northampton, because hitherto the Government had refused to allow them to purchase any land, for the purposes of cultivation, within a radius of ten miles of the town, and this refusal was regarded as a great hardship. The general feeling among the miners was, provided they could get the certificate of a competent person to the effect that there were no minerals on the land, that they should have the right to enter upon the land and cultivate it. This proposition, however, he had never supported, for in his belief it was absurd to think that any man, however competent, could safely assert that there were no minerals under the surface of any particular piece of land; and, for that reason, he had always upheld the Government in reserving these lands from sale. At the same time, it appeared to him—and he hoped it would appear in the same light to other members—there was no reason why the Government

should not frame some regulation under which the good agricultural land of the district might be utilised by the miners. A large quantity of corn and hay was consumed in the district, and at present cultivation to any extent could not be carried on, simply because persons could not obtain land for that purpose unless they paid for it the same price as for mineral land. It appeared to him, if the Government reserved for itself the right to all minerals found under the surface, there was no reason whatever why portions of land suitable for cultivation should not be set apart for that purpose; on the contrary, there was every reason why, in the interests of the district and of settlement, such a regulation should be framed. This view was concurred in by every member of the Select Committee, and he hoped it would also meet with the concurrence of every hon. member in the House.

MR. MARMION said it appeared to him that there was a certain amount of difficulty surrounding the paragraph now under consideration. It appeared from the report of the Select Committee that it was just a question of law whether the desired object could be attained by omitting the word "precious" in the reservation clause; and, inasmuch as the House had received no legal opinion on this question of law, he was somewhat perplexed to know whether he ought to support the clause or not. He was quite in accord with the hon. member for Geraldton and other hon. members as to the desirability of removing all obstacles to the settlement of the land; at the same time they had to consider that a large sum of money had been expended in this district upon a railway, with a view to develop the mineral resources of the district, and care should be taken that no impediment be placed in the way of that development, for, after all, the mineral industry of the district in question was likely to prove of far greater importance than the settlement of a few people on the soil in the neighborhood of Northampton.

MR. BROWN said it would be for the Government, before taking any action in the matter, to obtain legal opinion on the question referred to, and this, no doubt, they would do. At any rate it could do no harm for the House to agree to the

paragraph, and let the Government see what its wishes were in the matter.

The paragraph was then agreed to, as was also the next section, in which—following on the last proposal being sanctioned—it was pointed out that further amendments in other clauses of the land regulations would be necessary, in order to render them consistent with the amendment above adopted.

Paragraph 6: "The sale of town lots in the Northern District by the Government Resident causes a certain confusion at the Land Office in Perth, and we therefore advise the rescinding of "Regulations 48 and 49" [which provide that town and suburban lots in the Northern District of the Colony shall be sold by public auction by the Government Resident without reference to head quarters], "leaving such sales to be effected in the ordinary way" (at an upset price to be determined by the Commissioner of Crown Lands):

THE COMMISSIONER OF CROWN LANDS (Hon. M. Fraser) said the necessity for effecting the change proposed in this paragraph would be best illustrated by his citing one or two instances in which the existing arrangement had recently operated in a manner calculated to cause considerable confusion. Some time ago, on the recommendation of the Government Resident, certain lots of land were arranged to be set apart at Cossack for wharfage purposes. Almost simultaneously, on the return to Perth of the Very Rev. Father Gibney, from a visit to the North-West, application was made to the Government for a piece of land for the purposes of a Roman Catholic Church, and in that piece of land were these very lots which had been set apart for wharfages. The Government having in view the previous recommendation of the Government Resident, were obliged to refuse to accede to the application of the Catholics, which would have secured to them these lots; and another selection was made. Since then, however,—from what cause he could not yet say,—these very lots had been suffered to be sold on the spot, and had thus passed into private hands. The hon. gentleman also related another instance, in which the District Roads Board was concerned, showing the necessity—until we have means of telegraphic communication

established between head quarters and the North-West (a consummation devoutly to be desired, and one which he trusted would not be much longer delayed)—for transmitting all applications for the purchase of land to the head office, before sale is effected.

The paragraph was then agreed to, and the report of the Committee adopted.

CONFIRMATION OF EXPENDITURE BILL.

Read a third time and passed.

MESSAGE (NO. 11): VOLUNTEERS.

On the motion of MR. MONGER, the House then went into Committee to consider His Excellency's message, inviting a re-consideration of the resolutions recently adopted by the House relating to the limitation of the Volunteer Grant.

IN COMMITTEE.

MR. MONGER moved the following resolution:—"In reply to His Excellency's Message No. 17, explaining the object of his Message No. 8,—This Council, having carefully reviewed its former decision with regard to the Volunteer Force, which His Excellency has asked it to reconsider—is of opinion, that it is not expedient to limit the Volunteer Force to any particular number, provided always that the cost of their maintenance does not exceed the sum of £1,379 15s.: This Council therefore resolves, that an Humble Address be presented to His Excellency the Governor, praying that he will be pleased to place upon the Estimates for 1880, the sum of £1,379 15s. for the maintenance of the Volunteer Force in this Colony; and further, a sum of £150 for the purpose of providing the Albany Corps with the necessary arms." The hon. member expressed the feeling of satisfaction which the course adopted by His Excellency, in asking the House to reconsider this question, had caused him—a feeling which he was sure would be shared by the inhabitants of the District which he had the honor to represent, and more especially by those who had already

enrolled themselves as a Volunteer corps, and devoted considerable time to preparing themselves for martial duties.

POINT OF ORDER.

MR. S. H. PARKER: Before the resolution is put to the House, I feel it my duty to rise to a Point of Order. This question has already been before the Council on several occasions during the current Session, and an amendment, substantially the same as that now submitted for our affirmation, was proposed the other day by the hon. member for Fremantle, and negatived by the House, when, after a great deal of discussion it was resolved that the number of the Volunteers throughout the Colony (supported at public expense) should be limited to 500, and that only a certain amount of money should be appropriated for the service out of public funds. I think it is an undignified proceeding on the part of this House, after thus deliberately resolving that the various corps should be limited to a certain number and that the grant in aid should be confined within certain specified bounds; I say it would be undignified on the part of the House now to adopt a resolution to the contrary effect. Apart from that, the proceeding is one that involves a Point of Order. I am aware that it is one of the prerogatives of the Governor, and that it is competent for him, to send matters back for reconsideration by this House: I know that, so far as Bills are concerned, it is within the province of His Excellency to do so, but I submit this prerogative does not extend to resolutions of the House, and especially a resolution dealing with a money vote.

THE CHAIRMAN OF COMMITTEES: A Point of Order, something of a similar nature, was raised when His Excellency's Message No. 8, relating to the same subject, was brought under the consideration of the House. At that time I stated that in my opinion it was more of a constitutional question than one of parliamentary practice, but that as a question of parliamentary practice it certainly was not competent for the House to deal with the subject matter of His Excellency's message again, the matter having already been decided on a former occasion. As, however, His Ex-

cellency the Governor, under our present Constitution, has the power to confer with this Council and to ask it to reconsider its decisions, I may inform the House that, in conjunction with Mr. Speaker, I went to His Honor the Chief Justice and obtained his opinion upon this point. We did not feel perfectly sure on the question, the Speaker's ruling not agreeing with mine, and we thought it best to consult His Honor, who, we knew, is better acquainted with parliamentary procedure than ourselves. His Honor informed us that he also considered the question a constitutional one, and that, under our existing constitution, His Excellency is empowered to confer with this Council in the same way as the Upper House has the power to confer with the Lower House, and to send back the decisions of the Lower House for amendment. Entertaining this view of the question, His Honor conceived that His Excellency had full power to send back the resolutions of this Council for re-consideration, and to ask us to amend them. At the same time, the question was—whether His Excellency's previous message (No. 8) did invite us to reconsider this matter. The Chief Justice and the Speaker did not think that it did; on the other hand, I, for my part, as hon. members are aware, held that the message did invite us to reconsider our decision, and that it could have no other meaning. I am perfectly aware that the wording of the message was not altogether clear; but the message now before the House expressly states that in addressing the previous message to the Council it was His Excellency's desire to invite our reconsideration of the resolutions arrived at on the former occasion when the subject was under discussion. And I think I am right in informing the House that the Speaker is now in accord with me, that after this distinct expression of a desire on the part of His Excellency that the House should review its former decision, we are bound to do so, or at any rate that it is competent for His Excellency to make such a request, and competent for the House to comply with it.

The resolution of the hon. member for York was then put, and declared by the Chairman to be carried on the voices; whereupon Mr. S. H. PARKER

called for a division, which resulted as follows:

Ayes	...	...	10
Noes	...	...	6
Majority for			4

AYES.	NOES.
The Hon. R. T. Goldsworthy	Mr. Brown
The Hon. G. W. Leake	Mr. Brockman
The Hon. M. Fraser	Mr. Carey
Mr. Burges	Mr. Hardey
Mr. Glyde	Mr. Harper
Mr. Hammersley	Mr. S. H. Parker (Teller.)
Mr. Marmion	
Mr. S. H. Parker	
Mr. Pearce	
Mr. Monger (Teller.)	

The Resolution was therefore carried.

The House adjourned at 10 o'clock, p.m.

LEGISLATIVE COUNCIL,

Tuesday, 30th September, 1879.

Exception to words used in Debate—Government Station at Beagle Bay—Financial Statement—North-West Pearl Shell Fishery—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

EXCEPTION TO WORDS USED IN DEBATE.

MR. CAREY drew the attention of His Honor the Speaker to the following words made use of by the hon. the Commissioner of Crown Lands in this House, on Friday, 26th inst.:—"If he "thought the hon. member for Vasse," &c., "was actuated by a right and proper "feeling," &c., "but knowing, as he did, "that on the contrary the hon. member's "feelings were biassed,"—"I merely "maintain he had a bias,"—"I do not "care whether it is attributing a motive "or not; them's my sentiments;" "I "will go no further." "If I thought