

only recognised the principle of compensation for the bare value of the land—nothing about improvements, or severance, or the injury done by depriving a man of his water frontage, and the consequent depreciation in the value of his property. It was never contemplated, when the Crown reserved to itself the right to resume one-twentieth of a man's land, that it should be allowed to destroy the value of the rest of the land, without compensation. He proposed to move an amendment providing for compensation in such cases.

MR. PEARSE moved to report progress, in order that the hon. member's amendment might appear in print, before they proceeded to discuss it.

THE CHAIRMAN suggested that the better course would be for the hon. member to move his amendment, upon the re-committal of the bill, and, in the meantime, he might give notice of it.

MR. RICHARDSON said he would do so.

Motion to report progress negatived.

The amendment moved by the Commissioner of Crown Lands was then put and passed, and the clause, as amended, agreed to.

Clauses 56 to 69 inclusive, were agreed to, without discussion.

Progress reported, and leave given to sit again.

#### LAW OF DISTRESS AMENDMENT BILL.

Read a first time.

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

#### LEGISLATIVE COUNCIL,

Thursday, 22nd November, 1888.

Estimates, 1889: further considered in committee—  
Roads Bill: further considered in committee—  
Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

#### ESTIMATES, 1889.

*Postal and Telegraph Department* (adjourned debate):

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said the committee had reported progress in order that he might obtain from the Postmaster General some detailed information with regard to the item "Conveyance of inland and foreign mails," for which a sum of £11,000 was asked. He had done so. From the sum of £9,000 for inland mails a total amount of £5,209 7s. 4d. had to be provided for contract services, particulars of which he would lay on the table. During the first two months of 1889, it would be necessary to continue the present coach service on a portion of the Albany line, prior to the opening of the railway right through; and a sum of £300 had been put down for this. Provision had also been made for payment of £1,200 to the Commissioner of Railways, for the conveyance of mails on the Government lines; and, finally, provision had to be made for the conveyance of mails to and from Albany by the W. A. Land Co.'s line, for which a sum of £2,000 was asked, in addition to which arrangements had to be made for mail services for the settlements that were not served by that line, such as Kojonup, Williams, the Bannister. Coming to foreign mails, for which a sum of £2,100 was asked, the first provision made was for payment of our portion of the subsidy to the Pacific service, which calculated *pro rata*, amounted to £250. Next was the annual subsidy for the conveyance of mails between England and the colony, which amounted to £1,200 under the new contract—a considerable saving over the old, as under the new contract we only had to pay *pro rata* according to our population, whereas

under the old contract we had to pay by weight. Landing and shipping mails at Albany, £208; trucking between the post office and the jetty, £12; to the Ceylon Government, for the custody and shipment of our mails at Colombo, £25; and £400 for the transit of mails between Brindisi and London—making a total charge of £2,095.

MR. SHENTON asked how the amount of £2,000 was made up for the conveyance of the mails by the Beverley-Albany railway? On what date was the calculation made? What service were we to get for this £2,000?

THE COMMISSIONER OF RAILWAYS (Hon. J. A. Wright) said the arrangement had been made between the Postmaster General and the Managing Director of the company. He believed the original amount asked for was at the rate of 2d. a mile for the ordinary daily train service, and 2s. per mile for special trains for the conveyance of the English and Colonial mails. The company wanted £3,000, but he believed the Postmaster General succeeded in getting it reduced to £2,000.

MR. MARMION thought the Government had gone out of their sphere in making an important contract like this, without reference to the House.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser): All I can say is, if the House won't vote the money they won't have the mails.

MR. MARMION: The hon. gentleman is not in the habit of making such a reply as that, and here is one hon. gentleman who is not in the habit of accepting such an answer, nor does he intend to submit to it. We have our privileges as well as the Government, and one of them is to supervise the expenditure of the public funds; and I question very much whether the Government had a right to make an arrangement of this kind with the company, without consulting this House.

MR. SHENTON: During my eighteen years' experience as a member of the House, I never before heard such a reply from an hon. gentleman representing the Government—that if the House does not vote the money the country will not have its mails; and, in order to mark our sense of such curtness, I move that we report progress.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said it was a mere truism, that if the House did not vote the money there could be no mails. No contract, he believed, had been entered into, but simply a provisional arrangement, with the view of ascertaining what amount it would be necessary to provide on the Estimates for the service next year. Hon. members would see that there was a considerable saving in the amount, compared with the cost of the old Royal Mail service.

MR. SHENTON pointed out that a considerable amount was received from receipts under the old service. This £2,000 would be net expenditure. He saw no necessity for special trains at 2s. a mile, seeing that under their contract with the colony the company had to run a train daily.

MR. VENN would like to know what arrangement it was proposed to make for mail services for the intermediate settlements between Perth and Albany which would not be served by the railway.

MR. SHOLL said he should like to see the whole matter referred to a select committee.

MR. SHENTON thought they might have the Postmaster General examined at the bar of the House.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said if progress was reported he would endeavor to obtain further information from the Postmaster General. He had no further information to give at present.

Progress reported, and leave given to sit again.

#### ROADS BILL.

This bill was further considered in committee.

Clause 70—"The board of the district may, on giving one month's notice "in writing of their intention so to do "to the owner or occupier of the lands "adjoining the road closed by any such "fence or gate sanctioned as aforesaid, "remove any such fence or gate."

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) moved to insert after the word "may," in the second line, the words "with the approval of the Governor, and."

Agreed to.

Mr. RICHARDSON moved to strike out the word "one," in the second line, and insert "six." He thought one month's notice was insufficient. When permission had been obtained by a board, from the owner or occupier of land, to place a gate across any declared line of road, and the board afterwards required to remove that gate, he thought they ought to give the owner or the occupier six months' notice of their intention to remove it; so that a man might have an opportunity of stating his case to the Governor, as well as the board. It might be necessary for him to fence the land on each side, and make ordinary water places, and other things. But the Commissioner had pointed out to him that this clause only applied to cases where permission had been given under this Act, and that it was the road board that would have to do this, so that possibly it was not necessary to give such a long notice. Still there were cases where roads existed already, and had been public roads for years, and where the land was unfenced and unimproved, and the owner, after the passing of this Act, might get permission to place a gate across, and if the board wanted to remove that gate, the road being a declared road, the board would not then be required to do this; and in that case he thought this notice ought to be given.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said he accepted the amendment.

Amendment put and passed; also some verbal amendments. (*Vide* "Votes and Proceedings," p. 106.)

Clause, as amended, agreed to.

Clause 71—Board may close a road permanently:

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) moved some amendments in this clause, to make the meaning of the clause clearer, and the amendments were adopted, without discussion.

Clauses 72 to 81:

Agreed to, *sub silentio*.

Clause 82—"A board is hereby authorised and required to make and levy such rate or rates within the limits of the district, not exceeding in the aggregate one shilling in the pound in any one year upon the rateable value of all rateable property within the district,

"as may be deemed by the board requisite for the purposes of this Act, and such rate shall be called the general rate."

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) said the Government did not intend to make it obligatory upon these boards to levy a rate. He therefore moved that the words "and required," in the second line, be struck out.

Agreed to, without comment.

Clause, as amended, put and passed.

Clauses 83 to 88:

Agreed to, *sub silentio*.

Clause 82—How rates may be recovered:

Mr. RICHARDSON said it would be seen from this clause that in the event of any person feeling himself aggrieved by the valuation put upon his property by a road board, for the purpose of levying a rate, the person aggrieved might appeal against the valuation to the Local Court, by giving a notice to the board of his intention to appeal, within ten days after the rate had been declared. He thought the time within which this notice might be given (ten days) should be extended, and he moved that the word "ten" be struck out, and "twenty-one" inserted in lieu thereof.

Amendment agreed to.

Clause, as amended, put and passed.

Clauses 90 to 96:

Agreed to, without comment.

Clause 97—" (1.) It shall be lawful for the board in any year to expend out of the ordinary income of the board any sum not exceeding three per cent. of such ordinary income, for any purpose connected with the district, and for the benefit or credit thereof, although such purpose be not within the scope of this Act."

" (2.) Subject to the foregoing provision, the whole of the ordinary income of any district shall be applicable solely to doing or carrying out those things which by this Act the board is empowered or required to do or carry out."

THE HON. SIR J. G. LEE STEERE said that in the absence of the hon. member for Sussex (who had a notice on the paper to strike out this clause) he felt inclined to do so himself. He thought it was inadvisable that these roads boards

should have power to spend money for any other purpose than the upkeep of the roads. He did not know that any inconvenience hitherto had resulted from the boards not being able to spend money upon other purposes, and he could see that the power to do so might lead to a system of members voting sums of money for refreshments for themselves—which, he believed, had already been done by some boards, although most illegal. He moved that the clause be struck out.

MR. SHENTON said he agreed with His Honor the Speaker that this clause was quite unnecessary. He thought that all the money which these boards had should be spent on the roads. It might be said that the same provision existed in the Municipalities Act; but he would point out that municipal councils had to prepare estimates of their proposed expenditure, which had to be submitted to the ratepayers. It was not so with the roads boards.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) could not see much difference between the position of a municipal council and a road board. Both were representative bodies, elected by the people. In many parts of the colony there were no municipal councils, and the duty of entertaining any distinguished visitor, such as the Governor, usually devolved upon the district roads board. The money would have to be spent "for the benefit or credit" of the district; and a board need not spend it unless it liked. There was no compulsion in the matter. He supposed if the members of any board indulged in any extravagance they would not be likely to be re-elected.

MR. RICHARDSON said it had been stated by the Commissioner that he had never said a word in favor of these roads boards throughout the discussions on this bill. He now proposed to prove the exception to that rule. He thought that in some cases it was really necessary that these boards should have power to spend a trifle in obtaining refreshments, or perhaps entertaining a distinguished visitor, or presenting an address. Some of the members had to ride 30, 40, or 50 miles to attend the meetings of the board, and to put up at the local inn perhaps, and he thought there would be no harm done if the chairman of the

board were to be allowed to decide that the reasonable expenses of a member in attending to his duties might be paid out of the funds of the board. He did not say that this would often be done, but he thought there would be no harm if the board had power to do so, though perhaps the per centage proposed (3 per cent.) was rather high. He was not aware of any abuses that were likely to take place, seeing that the money had to be spent for the "benefit and credit" of the district.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said he was very loth to oppose anything coming from His Honor the Speaker, and he revered his motives in wishing to have all the funds of a board applied to the upkeep of its roads; but, during the short time he had been here, he had had considerable experience of the difficulty there was in always defining exactly what came within legitimate expenditure, in the case of these public bodies. The object might be a very necessary one and a very good one, but the auditors perhaps might take a different view. After all, it was only a very limited amount of expenditure that was here proposed. If they could trust a board to spend £97 upon their roads, they might surely trust them to spend the odd £3 in a legitimate way. He saw no harm likely to arise from allowing these boards an opportunity, when the occasion offered, of upholding the credit of a district for its hospitality. After all, it was a discretionary power; it was not a compulsory expenditure. There might be some important public event such as the inauguration of a bridge, or a board might wish to obtain the services or advice of some eminent surveyor with regard to some plans; and surely the board might be trusted with a few pounds to meet such expenditure.

MR. RICHARDSON pointed out that the 104th clause provided every security against any illegal expenditure of a board's funds. The auditors could disallow any expenditure contravening the provisions of the Act, and all the individual members of the board were to be held personally liable.

THE HON. SIR J. G. LEE STEERE thought the words "for the benefit or credit" of the district were capable of a very wide interpretation; and, if some

other words were introduced, preventing the members of a board from spending this money for their own personal convenience and entertainment, he would not have so much objection to the clause.

THE ATTORNEY GENERAL (Hon. C. N. Warton) thought it would be a somewhat serious reflection upon these boards if any words were put in prohibiting the members from spending the money in drinks, or in feasting themselves.

MR. VENN said he had a great deal of sympathy with the mover of the amendment to strike out the clause, he thought it was desirable to confine the expenditure of the funds for roads purposes. If some provision could be made to meet any extraordinary expenditure in the way of entertaining the Governor or some other distinguished visitor, or for presenting him with an address, or something of that sort, well and good; but he thought it was very desirable not to allow any loophole whereby the members of these boards would be at liberty to spend the funds of the board for their own personal gratification or convenience.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he regretted to find two hon. members who had themselves been chairmen of roads boards thinking there was a probability of these boards going outside the specific intention of the Act in the expenditure of this small percentage. Surely the words "for the benefit or credit of the district" could not possibly be construed to mean the personal benefit or credit of the members of the board. He himself had a very high opinion of the integrity of the boards.

THE HON. SIR J. G. LEE STEERE said he could speak with some practical knowledge and experience of these boards, which perhaps the hon. gentleman couldn't. He remembered some time ago a proposition being made at a meeting of the board of which he was chairman, that the expenses of the members when attending to their duties should be paid out of the roads board's funds. That proposition was made, notwithstanding the fact that no such provision as this was contained in the old Act, and several members of the board supported it. But, as he was of opinion that the board could not legally do so, he refused to put the

motion, until he referred the matter to the then Attorney General for his opinion, whose opinion was that the money could not be so spent. Still, there was an evident desire to do so; and, no doubt, if the present clause were carried, other boards would do the same thing.

MR. VENN said they might be sure of that.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) asked the committee to think what the amount of this fund would be, after all—a sum not exceeding 3 per cent. of the ordinary income of the board. It would not be more than £10 or £12 a year, in the majority of cases. It was hardly likely the members of a board would so far betray the trust reposed in them, as to spend the money upon themselves.

MR. MARMION would certainly be opposed to giving these boards this power, unless in the case of a board that had levied a local rate. It had been said that the same provision existed in the Municipalities Act. So it did, but municipalities taxed themselves, whereas the income of these roads boards was derived entirely from the State. If they wished to entertain each other, or anybody else, let them put their hands in their own pockets, and not in the pockets of other people.

MR. KEANE thought all the funds at the disposal of the boards should be applied to the upkeep of the roads.

MR. E. R. BROCKMAN thought they were making a great deal of fuss about a very small matter. It was only 3 per cent. out of the board's income—£3 out of every £100 placed at their disposal; and the money had to be spent for the "benefit or credit of the district," otherwise the auditors would disallow it. From his experience of these boards he thought they might very safely be trusted to this extent. He was not aware of any betrayal of trust hitherto on the part of these boards.

Question put—that the clause stand part of the bill:

The committee divided, with the following result—

Ayes ...	...	...	6
Noes ...	...	...	9
Majority against			3

## AYES.

Mr. E. E. Brockman  
Hon. Sir M. Fraser, &c. &c.  
Mr. Richardson  
Hon. C. N. Warton  
Hon. J. A. Wright  
Hon. J. Forrest (Teller.)

## NOES.

Mr. H. Brockman  
Mr. Harper  
Mr. Keane  
Mr. Marmion  
Mr. Scott  
Mr. Sholl  
Hon. Sir J. G. Lee Steere, Kt.  
Mr. Venn  
Mr. Shenton (Teller.)

Clause struck out.

THE HON. SIR J. G. LEE STEERE pointed out that it would be necessary to re-introduce the latter part of the clause, when the bill was recommitted. He referred to the words: "The whole of the ordinary income of any district shall be applicable solely to doing or carrying out those things which by this Act the board is empowered or required to do or carry out."

Clause 98—"Two auditors shall be appointed by the Resident Magistrate of the district."

MR. RICHARDSON thought one of the auditors ought to be appointed by the ratepayers, or, at any rate, that they should have the right to elect him. If they do not choose to exercise the right, the Resident Magistrate might be allowed to make the appointment. He also thought it would be desirable to provide that the Resident Magistrate himself should be one of the auditors. He therefore moved that all the words after "appointed," in the second line, be struck out, and the following inserted, "one of whom shall be the Resident Magistrate of the district, or a person appointed by him, the other shall be elected by the ratepayers at the annual general meeting. Should the ratepayers neglect or refuse to elect their auditor the appointment shall be made by the Resident Magistrate."

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) thought it would be inconvenient in some districts, where, perhaps, the Resident Magistrate resided hundreds of miles from the board's place of meeting, to provide that one of the two auditors must be the Resident Magistrate.

MR. MARMION thought the Resident Magistrate, if possible, ought certainly to be one of the auditors, for the funds expended by these boards would be Government funds.

Amendment agreed to.

Clause, as amended, put and passed.

Clause 99—Books of account to be open to inspection:

Agreed to.

Clause 100—" (1.) The board shall cause the accounts of the board to be balanced half-yearly up to the thirtieth day of April and the thirty-first day of October in each year; and after each such balancing the auditors shall audit the said accounts as soon as conveniently may be."

MR. RICHARDSON thought this clause providing for a half-yearly audit would be a dead letter, and that once a year would be quite enough to have the accounts balanced.

THE HON. SIR J. G. LEE STEERE agreed as to there being no necessity for a half-yearly audit, but thought the accounts ought to be balanced to the 31st December, and not the 31st of October. The former was the close of the financial year.

THE ATTORNEY GENERAL (Hon. C. N. Warton) thought the audit ought to take place before the term of office of the board expired. The election of members took place on the third Thursday in December, and the accounts ought to be balanced, before the election, so that the ratepayers might see whether the funds had been properly administered, before re-electing the members of the board, or electing other members in their place.

THE HON. SIR J. G. LEE STEERE did not think there was any necessity to have the audited accounts placed before the electors, before the election of the new board. There was not such a large choice of candidates, for the electors to choose from, as the Attorney General seemed to imagine. Generally speaking, the cause of embarrassment was not in the number of candidates to pick from, but in the paucity of candidates. It was very difficult to get members to come forward at all. He could not help thinking that a great deal of the discussion that had taken place on this bill had been occasioned by reason of members not being practically acquainted with the difficulties in the way of working even the present machinery of these boards. This was one reason why it was so difficult to get members to accept seats on these boards. He was sorry to say that the class of men who did come forward

was very inferior to the class from amongst whom these boards were elected in the early days of the system. Then all the best men in the district came forward for election, and there was almost as much ambition to become a member of a roads board as a member of the Legislative Council. But, he was sorry to say, that was not the feeling among the settlers now; and a very different class of men, as a rule, composed these boards at present from the class who used to come forward.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 101 to 105:

Agreed to, without discussion.

Clause 106 — Meaning of "public notice:"

THE HON. SIR J. G. LEE STEERE thought the insertion of a notice in the *Government Gazette* was not a sufficient public notice for the purposes of this Act. The notice should also be published in some newspaper circulating in the district.

THE ATTORNEY GENERAL (Hon. C. N. Warton) concurred, and moved to insert after the word "*Gazette*," in the first section of the clause, the words "and in a public newspaper circulating in the district."

Agreed to.

MR. RICHARDSON asked whether it would not be necessary also to amend the third sub-section, which said: "Production of the *Government Gazette* shall be sufficient proof of the matters therein contained, as provided by this Act."

THE ATTORNEY GENERAL (Hon. C. N. Warton) said that only referred to the question of proof, in relation to any matter which the Act, generally, required should be published in the *Gazette*.

Clause, as amended, put and passed.

New Clause:

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) moved, in accordance with notice, that the following new clause be added: "In the execution and performance by any roads board of the powers and duties conferred upon them by this Act, the said board shall not be liable nor shall any member thereof be liable in any way, in respect of the execution or non-execution of the said powers or the performance or non-performance of the said duties." The hon. gentleman said the object of this

clause was to protect the members of a board from actions being brought against them, in consequence of any accident that might happen by reason of some bad spot on a road, or a defective plank or something in a bridge or culvert. In a large colony like this, it was impossible for a roads board to be responsible for every hole in a road or loose rail in a bridge, when they had hundreds of miles of roads perhaps to look after. He thought this protection was necessary not only in the interests of the roads boards, but also of the district. The funds at the disposal of these boards was generally small, and if an accident happened by reason of a horse slipping at some bad spot on a road, and the board was to be held responsible, all the available funds would be swallowed up in payment of damages. He did not know that the members of these boards were personally liable now, but he thought it would be a great hardship if the inhabitants of a district had to be taxed in order to pay any damages that might be recovered against the local roads board, if they were to be held responsible for every accident—accidents over which they practically had no control.

MR. VENN said he was rather opposed to this new clause, although there was considerable force in the Commissioner's remarks. He did not mean to say that in all cases these boards ought to be held liable, but he thought there were cases in which a board might fairly be held to be collectively liable; and he was afraid if a clause like this were introduced, exempting them individually and collectively from all responsibility, there would not be that careful supervision of the roads there was now, when there was a certain amount of liability attached to these boards.

THE ATTORNEY GENERAL (Hon. C. N. Warton) said they must look at the position of these boards, financially. They were not wealthy bodies, with an unlimited income; and what little income they had was derived from the public funds. The committee had struck out the words requiring the boards to levy a local rate, and practically the only funds at the disposal of the boards were contributions from the public Treasury. The question was whether it would be right to have this small income liable to be

swallowed up in actions for damages. It was said that there was a difficulty now in getting members to come forward for these boards; that difficulty would be largely augmented if they were to be held liable for damages. Under the ordinary law, a board was liable to be sued if there was a clear case of culpable negligence against them; but it would be very hard if they were to be held liable for every little accident, and regarded as legitimate objects for all sorts of speculative actions being brought against them.

MR. SCOTT thought the boards ought not to be exempted from the result of their own negligence. He had known broken culverts left open for weeks, to the imminent danger of passers by; and if anyone had fallen into these holes at night, the probability was they would have broken their necks. At other times they saw big logs of wood placed across roads, and left there for weeks, to the danger of every vehicle using the road. He thought there ought to be no protection for a board against such carelessness as this. The public had a right to be protected as well as these boards.

Progress reported, and leave given to sit again.

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

## LEGISLATIVE COUNCIL,

Friday, 23rd November, 1888.

W. H. Foster, mail driver—Estimates, 1889: further consideration in committee—Message (No. 19): Replying to Addresses—Goldfields Licensing Bill: third reading—Adjournment.

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

PRAYERS.

W. H. FOSTER, LATE MAIL DRIVER.

MR. SCOTT, in accordance with notice, asked the Colonial Secretary, whether W. H. Foster, who was recently a mail

driver in the Southern Service, was not a Police Constable, and therefore permanently in the Public Service?

2. If so, was not the said W. H. Foster entitled to some compensation for loss of appointment?

3. Did the Government intend to give him fresh employment, and when?

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) replied: W. H. Foster was not a police constable in the ordinary sense, and was not permanently in the public service. In common with other mail coach drivers, similarly employed, he has no claim to compensation on discharge; his name has been noted for further employment, for which he has a claim, and which he will receive when an opportunity offers.

## ESTIMATES, 1889.

The House went into committee for the further consideration of the Estimates.

*Postal and Telegraph Department—*  
(adjourned debate):

THE COLONIAL SECRETARY (Hon. Sir M. Fraser) said he was now able to give the committee some further information with reference to the conveyance of mails between Perth and Albany. He had seen the Postmaster General, and had been furnished by him with the correspondence that had taken place between him and the Managing Director of the railway company, and he would read the correspondence to hon. members. (Correspondence read.) Hon. members would see that the Postmaster General had done all he could to make the best terms he could for the colony, and the provisional agreement was subject to the approval of that House. He had also detailed particulars of the other items under the head of "Contingencies," which he would lay on the table, including the proposed arrangements for the mail services for the settlements on the Albany road.

MR. SHENTON said the explanation which had now been afforded was very satisfactory. It appeared the Postmaster General had taken a great deal of trouble in this matter, with the W.A. Land Co., and no doubt had made the best bargain he could for the colony. Not having this information before them yesterday, they were under the impression that £2,000