

ORDER OF BUSINESS.

Mr. GILLIES moved that the House at its rising adjourn to Tuesday, June 24. He remarked there was no more Government business ready to be gone on with that evening, and there would be scarcely anything to do if the House were to meet the following day. He might inform the House that he proposed to take the first stage of the Metropolitan Board of Works Bill on Tuesday next, and would make a short statement as to the lines on which the Government proposed to go, and the grounds on which they based their proposals. There had been some alterations in the Bill since it left the hands of the municipal councils, and he thought it was desirable, when a measure of such importance was submitted to Parliament and the country, that the Government should state exactly the grounds on which they had gone. With regard to the lack of business, he might say that the Government could not possibly have got their Bills on any earlier than they had done.

Mr. WRIXON seconded the motion.

Mr. MUNRO said that if the Government were not ready to go on with business the Opposition could not force them to go on. Honorable members in opposition were just as fond of holidays as honorable members in office, but he hoped that the Government would not say later in the session that the business of the country had been delayed by any obstruction on the part of the Opposition.

The motion was agreed to.

The House adjourned at twenty-five minutes past six o'clock, until Tuesday, June 24.

LEGISLATIVE COUNCIL.

Tuesday, June 24, 1890.

Federation of Australasia—Passenger Lifts—Stinkwort—Lighthouse at Cape Leeuwin—Railway Loan Act 1889 Amendment Bill—Census Bill—Expenditure under Loans—Fisheries Board—Pleuro-Pneumonia Extinction Bill—Leave of Absence to Members: The Honorable W. H. Roberts: The Honorable J. P. MacPherson—Irrigation Expenditure—Declarations Commissioners Bill.

The PRESIDENT took the chair at four minutes to five o'clock p.m., and read the prayer.

SES. 1890.—2 G

FEDERATION OF AUSTRALASIA.

The PRESIDENT announced that he had received a message from the Legislative Assembly, by the Clerk of the Assembly, desiring the concurrence of the Legislative Council in the resolutions with respect to the holding of a National Australasian Convention, passed by the Assembly on June 10.

The Hon. H. CUTHBERT moved that the message be taken into consideration on Tuesday, July 1.

The motion was agreed to.

PASSENGER LIFTS.

The Hon. F. S. DOBSON asked the Minister of Justice if the Government would consider the desirableness of introducing legislation with respect to the inspection and control of passenger lifts in the city and suburbs?

The Hon. H. CUTHBERT stated that the subject was under the consideration of the Government, with a view to the introduction of a measure during the present session.

STINKWORT.

The Hon. C. SARGEANT said he wished to draw the attention of the Minister of Justice to the fact that a very bad weed, known as "stinkwort," was overrunning the agricultural areas of South Australia, and, as there was a probability of the pest finding its way to Victoria, he desired to know if the Minister would direct that the fullest information bearing on its nature and habits be circulated as early as possible amongst the farmers of the colony?

The Hon. H. CUTHBERT observed that the attention of the department of Agriculture had been given to the matter, with a view of ascertaining if the weed could be utilized for any purpose; and all the information that could be obtained by the department respecting the nature and habits of the weed would be published in due course.

LIGHTHOUSE AT CAPE LEEUWIN.

The Hon. W. I. WINTER-IRVING asked the Minister of Justice if there had been any united action of the Governments of Victoria, South Australia, and Western Australia to place and maintain a lighthouse on Cape Leeuwin? He said he put the question in the interests of passengers by the large ocean-going steamers which plied between England and the colonies.

No land was sighted between Colombo and Cape Leeuwin, a distance of 4,000 miles, and in view of the possibility of a ship's compasses getting out of adjustment, and the officers being unable, on account of bad weather, to take the requisite bearings to ascertain the position of the vessel, it was necessary to provide a lighthouse at Cape Leeuwin, which was the only important point on the Australian coast at present unlighted. There were three distinct mail services between Europe and Australia, and it was quite possible to conceive that, owing to the want of a lighthouse at Cape Leeuwin, one of the large mail steamers, with some hundreds of passengers aboard, might be wrecked on a most inhospitable shore. Men of the best nautical experience had expressed to him their fears that a lighthouse would not be provided at Cape Leeuwin until there was some great calamity of that kind; but the Governments of the various colonies of Australia would incur a grave responsibility if they failed to establish a lighthouse in the locality until such a catastrophe had demonstrated its absolute necessity, and he therefore felt it to be his duty to bring the matter under the notice of the Government of Victoria.

The Hon. H. CUTHBERT said that a conference of the principal officers of the Marine departments of the various Australian colonies, which met in Sydney, considered, among other things, the question of providing lighthouses on the Australian coast. With regard to a lighthouse on Cape Leeuwin, the conference was informed, in a communication from Western Australia, dated July 18, 1885, that steps were being taken to establish a lighthouse at or near Cape Leeuwin, and that a further communication would be forwarded to each of the colonies in due course. That further communication had not been received, however, and it would appear that nothing had been done. Sir Henry Wrenfordsley urged that the matter should be dealt with at the Colonial Conference which was held in London in 1887; and to this Mr. Gillies replied that the responsibility of leading in the matter did not rest with Victoria, but that this colony would be prepared to bear its share of the cost of establishing and maintaining a lighthouse at Cape Leeuwin.

RAILWAY LOAN ACT 1889 AMENDMENT BILL.

This Bill was received from the Legislative Assembly, and, on the motion of the Hon. J. BELL, was read a first time.

Later in the evening,

The Hon. J. BELL moved the second reading of this Bill. He observed that its object was to reduce the period of the Railway Loan Act passed last session, so that the debentures under it would be redeemable at the same date as those of the Railway Loan Act of 1888. By this means the debentures of the two loans could be placed in one line and quoted together. The alteration was recommended to the Government from London by cable before the last loan was floated, and a reply was sent that as soon as Parliament met it would be asked to pass a Bill for the purpose. A letter was received by the Agent-General from the London and Westminster Bank, which acted for the colony in regard to loans, strongly recommending the alteration.

Sir F. T. SARGOOD remarked that by the alteration the colony would have to pay £4,000,000 a year sooner than was provided by the Loan Act passed last session, and the only question in his mind was whether the colony had got from the home market a proportionate price for the year lost. (Mr. Bell—"It was publicly stated by our agents, before the loan was floated, that the change would be made.") In that case there was really an undertaking on the part of the Government, and no doubt Parliament would indorse it.

The Hon. J. M. DAVIES regretted that the Consolidating Bills were not received by the House before this measure was introduced. One reason why the Consolidating Bills were not passed last session was that every Act might be included in them, so that when they came into force they might constitute the whole of the legislation up to a certain point. He hoped that there would be no other Bills passed until the Consolidating Bills were made law. He noticed that in other Bills before Parliament the Consolidating Bills were referred to as already passed.

The motion was agreed to.

The Bill was then read a second time, and was afterwards passed through its remaining stages.

CENSUS BILL.

This Bill was received from the Legislative Assembly, and, on the motion of the Hon. J. BELL, was read a first time.

RAILWAY CONSTRUCTION BILL.

The Hon. W. A. ZEAL asked the Minister of Justice if he would cause the maps

and schedules of the lines of railway proposed in the Railway Construction Bill which had been introduced in another place to be circulated among honorable members, so that they might have an opportunity of considering them?

The Hon. H. CUTHBERT said that the request was a reasonable one, and he would be happy to comply with it.

EXPENDITURE UNDER LOANS.

Sir F. T. SARGOOD (in the absence of Mr. SERVICE) moved—

“That a return be laid on the table of the Council showing (approximately only, if more convenient) the amount of borrowed money that has been spent on railways and public works of every description in the colony each year since the introduction of responsible Government.”

Sir B. BENJAMIN seconded the motion.

The Hon. W. A. ZEAL suggested that the return should include the cost of the railways, and the revenue derived from them in a particular year to be specified.

Sir F. T. SARGOOD said that, in the absence of Mr. Service, he would not feel justified in amending the motion. He suggested that Mr. Zeal should move for a separate return giving the information he desired.

The motion was agreed to.

FISHERIES.

The Hon. J. H. CONNOR moved:—

“That in the opinion of this Council it is desirable that the fisheries of the colony be placed under the control of a ‘Fisheries Board,’ with power to make by-laws, rules, regulations, &c., for the management and development of our fisheries.”

He said he thought honorable members would agree that it was advisable that the Government should, as soon as possible, take some definite steps for the development of the fisheries of the colony. There was an abundance of fish in the waters of Victoria, and what was required was such a system of management as would provide not only for fish culture, but for the proper distribution and sale of fish. He doubted whether any measures could be taken by the Minister of Customs for the development of the fisheries which would be satisfactory to the public. In Tasmania there was a Fisheries Board, which had done a great deal of good, especially in the acclimatisation of salmon and other fish. In New South Wales a similar board existed, and although it had not given entire satisfaction, it had done some valuable work. He would

suggest that in this colony there should be a board appointed to take charge of the fisheries, which board should be composed of experts and practical men, and that it should be responsible to Parliament through a Minister. Measures might be adopted for the development of the deep sea and inland fisheries of the colony which would be of immense advantage to the public. There were some magnificent lakes and streams in the colony which might be used for the cultivation of fish, and there were many places on the coast at which the curing of fish might be carried on satisfactorily. At the present time the rich were almost the only consumers of fish; the poor and the middle classes could not afford to purchase it at the prices charged. He was informed that there was a fish salesmen’s “ring” in Melbourne, and that it controlled the fishing industry. The Government should do something to enable the public to obtain a better and cheaper supply of fish. In addition to the fresh-water lakes there were some salt-water lakes in the colony, such as Lake Corangamite, in which sea-water fish could live. Large numbers of fish had been put into that lake, and others might be introduced. Many of the fresh-water lakes had been stocked with fish, and steps should be taken to protect the fish and to render them available to the public. The Government would act wisely in giving this matter their careful consideration. Some time ago a series of reports on the fisheries of the colony were prepared by Mr. Saville Kent, but the Government did not appear to have taken any action with the view of giving effect to his recommendations. The Minister of Customs could not devote the time that was necessary to the subject, and he believed that great good would accrue from the appointment of a Fisheries Board. In the United States, Canada, and Newfoundland considerable attention had been given to the development of the fisheries, and the fishing industry in each of those countries was a large and profitable one. The Government might with advantage take a leaf out of their book. The fishing industry of this colony was at present in its infancy. The Government had devoted very little attention to it, and he thought it was the duty of honorable members to press the Government to deal thoroughly with the question at the earliest possible moment.

The Hon. D. HAM seconded the motion.

The Hon. J. BELL observed that if Mr. Connor had carried his inquiries a little

further he would have found that the Fisheries Board of New South Wales had been an utter failure. Last year the Legislative Assembly of New South Wales appointed a select committee to take evidence on the working of the Fisheries Act, and they recommended that the board should be abolished, and that the control of the fisheries should be left entirely in the hands of a Minister. The present Minister of Customs took the greatest interest in this question, and had endeavoured in every way possible to foster the fishing industry. Only recently Mr. Saville Kent was employed, at considerable cost, to prepare a scientific report on the fisheries of the colony. With regard to the proposal to appoint a Fisheries Board, he (Mr. Bell) had received a memorandum from the Customs department in which it was stated—

“It is difficult to see in what way a board would be preferable to the present system in Victoria. All boards involve a considerable expenditure, as has been the case in New South Wales, and the conditions of the fishing industry are not considered to be such as to require such an elaborate machinery and increase of expenditure as the appointment of a board would entail.”

The experiments recently conducted in deep-sea fishing had been attended by satisfactory results, and the offer of a considerable bonus was likely to lead to its further development. On the whole he did not think it would be advisable, at the present time at any rate, with the experience of New South Wales before them, to create a Fisheries Board.

Sir F. T. SARGOOD remarked that there was no doubt that the waters along the coast of Victoria were teeming with fish, but while fish as a food should be within the reach of everybody it was really a luxury of the few. A few years ago the old country was threatened with what was, comparatively speaking, a somewhat similar difficulty. The Imperial Government then took measures to insure the due protection of fish, especially in the spawn season, and one of the provisions made was that if fish of a certain size were caught they should be returned to the water. Recently Sir Thomas Brady, one of the inspectors of the fisheries of the United Kingdom, visited Victoria. He (Sir Frederick Sargood) had several conversations with him, and was struck with the amount of interesting information he was able to afford on this subject. From the information Sir Thomas Brady gave him, he was led to believe that the system adopted in this colony of partial supervision of the fisheries was sadly wanting from a practical

point of view. He knew that the Minister of Customs took a keen interest in the fisheries, but the honorable gentleman's successor might not have the same amiable weakness. If the fishing industry was to be made a success, it must be by legislation of a different character from that now in existence. At the same time he was not prepared to commit himself to the proposition that a Fisheries Board should be established. He was not a great admirer of boards. They entailed considerable expense and a considerable waste of time, and the results were very often not commensurate with either. He would have far more confidence in an arrangement by which one or two energetic men would be intrusted with the control of the fisheries. The Government might very well be asked to legislate on the subject, which was of great importance. Large votes were granted for the development of the gold and coal mining industries, and for other matters, all of which were important in their way, but not more important than the obtaining of so important an article of food as fish. He could not vote for the motion, because it would tie the House down to a specific proposal. He did not think Mr. Connor desired more than that something should be done to develop the fisheries, and that that something should be the best. (Mr. Connor—“Hear, hear.”) He would therefore suggest that the motion should be either amended or withdrawn and re-introduced in another form.

The Hon. S. FRASER stated that he concurred in the remarks of Sir Frederick Sargood. The fishermen of the colony at present led a miserable existence. They slaved from midnight to midday, and sometimes all day, and all they got for the baskets of fish they sent to Melbourne was 3s. each. The solution of this question lay in the establishment of proper means for the distribution of fish. Good boiling fish, such as that commonly called “yellow-tail,” was sent to Melbourne and sold wholesale at 3s. a basket, and was often retailed at that price per fish. If proper means of distribution were provided fish would be brought to every man's door, and would be sold at a moderate price.

The Hon. C. J. HAM remarked that this was a very important subject, and the House was indebted to Mr. Connor for having brought it forward. It would be satisfactory to know that some steps of a practical character were being taken to insure the better distribution of fish. The old Fish

Market was recently acquired by the Government, and by Act of Parliament an exchange of property took place between the Government and the city corporation, which gave the latter body a large block of ground on which they were about to erect markets, of which a fish market formed an important feature. The buildings were to cost about £160,000. The plans had been prepared, and tenders would shortly be called for. Large refrigerating chambers would be provided in the markets, where not only fish but all other perishable articles of food might be stored and preserved. The fishermen then, instead of being compelled to sell their fish for what it would fetch, would be able to place it in the refrigerating chambers, and the means for the distribution of the fish supply would be very much improved. He believed that, as the result, the residents of Melbourne and the suburbs would be able to obtain fresh fish at a reasonable price, and great benefit would accrue to the industrious fishermen. The labours of the fishermen were very arduous, and in the hot weather they lost much of their profit, owing to large quantities of fish being condemned.

The Hon. J. M. PRATT stated that Mr. C. J. Ham had said what he had intended saying with reference to the effort now being made by the city corporation to provide better facilities for the sale of fish. If the city corporation were successful, as he had no doubt they would be, the other large centres of population in the colony should follow their example. There was no reason why such places as Geelong, Ballarat, and Sandhurst should not have fish markets of their own. It was of the greatest importance that proper storage accommodation should be provided, as otherwise perishable articles of food, when sent to Melbourne during the hot weather, had, if not sold on the one day, to be thrown away. The waters of the colony were teeming with fish, and what was required was proper means of distribution. He was pleased to say that the city corporation were alive to the importance of the subject, and were not approaching it in any niggardly spirit. The fish market they propose to erect would establish free trade in fish. Sufficient accommodation would be provided for all persons who desired to sell fish, and the public would be able to go to the market and purchase fish at reasonable prices. He agreed with Sir Frederick Sargood that it was not advisable that the House should commit itself to the proposition that a Fisheries Board should be appointed. If such a board were appointed,

it was probable that boards for rabbit and sparrow destruction would also be proposed.

The Hon. D. MELVILLE remarked that he hoped the Minister of Defence would inform the House that the Government would deal with the question of the fisheries this session. If not, he would feel it to be his duty to move the adjournment of the debate.

The Hon. J. BUCHANAN observed that he had frequently come into contact with the fishermen of the colony, and he knew what their grievances were. When they had a good haul of fish the public did not get the benefit of it. A large quantity of the fish had to be thrown away. When the fishermen on the Clyde got a large haul of fish, they brought their boats to the quay side, and sold the fish there. No restrictions were placed upon them, or on the persons who retailed the fish, and the result was that there was no waste. He asked a fisherman what was the remedy for the present state of things, and his reply was that he wished the fish market were burnt down, and the fishermen were allowed to sell without having to pay for licences. The difficulty was not the want of fish, but the want of proper means of distribution. The licence-fees now charged should be abolished.

The Hon J. G. BEANEY stated that he had listened with pleasure to the speeches which had been delivered on the question of the fisheries, and he was glad to find that there was a likelihood now of an adequate fish supply being brought within the reach of the general public. The waters of the colony were teeming with fish; but the difficulty was to provide proper means for its distribution. Fishermen had told him that when they sent large quantities of fish to Melbourne they obtained very little for them, and they had thrown fish back into the water because they would get no more for the larger than for the smaller quantity. Fish was a very light and substantial article of diet, and many persons could digest it when they could not digest anything else.

The Hon. J. A. WALLACE said he had observed that Chinamen who came to St. Kilda with baskets of fish were watched, and if they attempted to sell the fish they were required to pay a licence-fee. Such a restriction should not be imposed, and it would be a great advantage to the public if licence-fees were abolished.

Sir B. BENJAMIN remarked that he was pleased that the question of the fish

supply had been brought before the House. He knew that there was at times a great scarcity of fish, and that exorbitant prices were charged for it. The statement made by Mr Buchanan with regard to licence-fees might mislead honorable members. No licence-fees were charged by the city corporation, and the market dues which had to be paid on each basket of fish that passed through the market were merely nominal. One reason of the scarcity of fish was the lack of proper means for its transit from the various harbours and rivers of the colony to Melbourne; and another was the existence of a sort of "ring" in Melbourne which controlled the sale of the article. Within the next twelve or eighteen months the city corporation would be able to afford adequate facilities for receiving and disposing of fish. They were desirous of doing everything in their power to assist the fishing industry, but their efforts should be backed up by the Government. He trusted that the Government would recognise the necessity of dealing with the question.

The Hon. J. S. BUTTERS said the whole cause of complaint arose from the manner in which fish were dealt with when they were brought into the corporation market, and if in the new market fish were allowed to be sold by auction as at present, the "ring" would continue to hold the command, and they would continue to destroy hundreds of baskets of fish so as to keep up the prices. The whole secret of the matter lay in the system of auction which was carried on early in the morning. Any one could see baskets of fish sold for 1s. 6d., and then destroyed by hundreds so as to limit the supply and enhance the prices for the benefit of the "ring." If there was some legislation to prevent this system being continued, he believed private enterprise would supply abundance of fish. Cooling chambers would be useful, and there should be an increased number of distributors, but so long as the auction system was maintained the present state of things would prevail.

The Hon. G. DAVIS remarked that, as representing a district which sent a great deal of fish to Melbourne, he would impress on the City Council the desirability of allowing absolute free trade in fish. The revenue thus lost would be of small moment to a rich corporation compared with the advantage to the public in being able to obtain at a cheap rate so wholesome an article of diet. Let hawkers be allowed to distribute fish without any fee being demanded from

them. Gippsland fishermen told him that they sold a basket of fish for 3s. 6d., and that sometimes as much was asked in Melbourne for one flounder. (Sir B. Benjamin—"That is overdrawn.") He would appeal to the rich city corporation, which had so many representatives in the Council, to set a good example in this matter.

The Hon. J. BELL intimated that his honorable colleague the Minister of Justice and himself would bring before the Cabinet the views which had been expressed by honorable members on the subject, with the view of making inquiries, and, if necessary, of proposing legislation on the question.

The Hon. J. H. CONNOR said that, after the promise of the Minister of Defence, he would withdraw the motion. He hoped the Government would take the earliest opportunity of dealing practically with the question.

The motion was withdrawn.

PLEURO-PNEUMONIA EXTERMINATION BILL.

The Hon. G. DAVIS moved for leave to introduce a Bill to provide for the extermination of pleuro-pneumonia in Victoria.

The Hon. J. BUCHANAN seconded the motion, which was agreed to.

The Bill was then brought in, and read a first time.

LEAVE OF ABSENCE.

The Hon. J. G. BEANEY moved that leave of absence for the remainder of the session be granted to the Hon. W. H. Roberts, on account of urgent private business.

The Hon. G. LE FEVRE seconded the motion, which was agreed to.

The Hon. H. CUTHBERT moved that leave of absence for the remainder of the session be granted to the Hon. J. P. MacPherson, on account of ill-health. He observed that Mr. MacPherson had been very ill ever since the opening of Parliament, and he was very anxious that leave of absence should be granted to him, as otherwise he was afraid he might lose his seat.

Sir F. T. SARGOOD seconded the motion, which was agreed to.

IRRIGATION EXPENDITURE.

The Hon. S. FRASER moved—

"That a return be laid on the table of the Council, made up to the 30th June, 1890, of all moneys advanced to trusts under the Irrigation Acts, giving dates of advances, the interest

paid and in arrears; also the total cost of all 'national works.'"

The Hon. N. FITZGERALD seconded the motion, which was agreed to.

DECLARATIONS COMMISSIONERS BILL.

The House went into committee for the further consideration of this Bill.

Discussion (adjourned from June 10) was resumed on clause 4, providing that declarations before a commissioner should have the same force and effect as if made before a justice of the peace.

Sir F. T. SARGOOD asked the Minister of Justice whether, if this clause was passed, it would prevent justices of the peace taking affidavits in connexion with the Supreme Court?

The Hon. H. CUTHBERT stated that the clause was solely confined to the taking of declarations, and did not refer to affidavits.

Discussion took place on clause 6, which was as follows:—

"All affidavits to be used for any purpose whatever (except in any proceeding in the Supreme Court) may be sworn before a commissioner for taking declarations and affidavits."

Sir F. T. SARGOOD moved that the words "except in any proceeding in the Supreme Court" be struck out. He observed that he had received information from solicitors of standing to the effect that restricting the power of the commissioners to cases that were not proceedings in the Supreme Court would not carry out the wishes of the profession, while it would prevent the Bill from being of as great benefit to the public as it might be made. His attention had been called to the fact that in New South Wales, under an Act passed in 1874, justices of the peace had the power of taking affidavits in proceedings in the Supreme Court, while under that Act the Chief Justice had exactly the same power as the Chief Justice of Victoria, of appointing commissioners for taking affidavits. He had not the slightest desire to trench on the authority of the Chief Justice, but he took it that the Supreme Court was made for the people, and not the people for the Supreme Court, and if greater convenience could be accorded to the general public by extending the powers of the justices of the peace or of the commissioners provided for by this Bill, so as to enable them to take affidavits in proceedings in the Supreme Court, he thought that would be a step in the right direction.

The Hon. J. G. BEANEY inquired whether the Bill would interfere with the present powers of justices?

The Hon. H. CUTHBERT stated that the Bill would not interfere in the slightest degree with the existing powers of justices. A justice of the peace now could take a declaration or an information, but he could not take an affidavit in a proceeding in the Supreme Court. (Dr. Beane—"Will the Chief Justice still be able to appoint commissioners?") Certainly. In framing the Bill he did not wish to interfere in the slightest degree with the powers of the Supreme Court, and seeing that the commissioners appointed for taking affidavits were officers of that court, and that the Chief Justice was responsible for their appointment, he did not desire to interfere with them. He was not aware of any outcry in the country that there was an insufficiency of commissioners for taking affidavits in the Supreme Court, and in the towns there was certainly an ample supply of such commissioners. What was chiefly wanted in the country was facility for making declarations, which were more frequent than affidavits, as the tendency of recent legislation was to substitute solemn declarations for affidavits.

Sir F. T. SARGOOD remarked that in the case of a dishonoured promissory note there must be an affidavit before signing judgment, and he was assured that there was sometimes great difficulty in getting an affidavit taken in such cases.

The Hon. H. CUTHBERT said he was confident that if there was any place in which there was an insufficiency of commissioners for taking affidavits in connexion with the Supreme Court, a representation to the Chief Justice would soon have the matter remedied.

The Hon. J. M. DAVIES observed that he intended to support the clause as it stood, because he failed to see the necessity for appointing another set of commissioners for taking affidavits in the Supreme Court. The commissioners were now appointed by the Chief Justice, and he was very careful in making the appointments to select suitable men to perform the duties. As far as his (Mr. Davies') experience went, he had never found any difficulty in Melbourne in getting an affidavit sworn, and in the country there could be no difficulty in getting a commissioner appointed by the Chief Justice wherever one was absolutely necessary. Again, he was under the impression that one of the objects of the Bill

was to appoint men to take declarations who were not altogether in such a position that the Government would care to appoint them justices of the peace, yet by the amendment greater powers would be conferred on those men than were possessed by justices of the peace. If anything, the Bill went too far by including the insolvent court, and it would certainly go too far if the amendment were adopted.

The Hon. F. BROWN expressed the opinion that if the Bill was to be of any service to the country districts—and that was where the measure was required, not in the towns—justices of the peace should be allowed to take affidavits in proceedings in the Supreme Court. There were plenty of justices throughout the country who could take declarations, and why should it be considered a greater responsibility to take an affidavit than to take a declaration? A man capable of taking the one was surely capable of taking the other. Allowing justices to take affidavits would not trench on the privileges of the Chief Justice, as he invariably appointed professional men or clerks of courts as commissioners. Affidavits were required occasionally in the country districts, and men had to travel miles and miles before they could get one taken by a commissioner. It would be a mistake he thought to introduce a new class of men as simply agents to take affidavits, but it would be a great public convenience to extend the power to justices. It was not always so easy to get the Chief Justice to appoint commissioners for taking affidavits where they were required. He knew an instance where a commissioner was required on the border, and where it would have saved a journey of 100 miles if an appointment had been made when it was asked for.

The Hon. T. DOWLING said that if it was proposed to grant justices the power to take affidavits, he thought no one would offer any objection to that, but the effect of the amendment would be quite different. If the words "except in any proceeding in the Supreme Court" were struck out of the clause, the result would be to give the commissioners appointed under this measure greater power than justices of the peace. It would be better to pass the clause as it stood and insert another giving justices the power of taking affidavits.

At this stage progress was reported.

The House adjourned at half-past six o'clock.

LEGISLATIVE ASSEMBLY.

Tuesday, June 24, 1890.

Redesdale Railway—Railway Department: Manufacture of Rolling-Stock at Railway Workshops: Refrigerating Cars: Mordialloc Trains—Importation of Opium—Mallee Lands—Exportation of Butter—Distress for Rent Law Amendment Bill—Melbourne and Metropolitan Board of Works Bill—Medical Practitioners Bill—Trade Marks Act Amendment Bill—Education Endowment Commissioners Bill.

The SPEAKER took the chair at half-past four o'clock p.m.

REDESDALE RAILWAY.

Mr. GORDON asked the Minister of Railways the following questions:—

"1. If it is intended to comply with the request of the residents of Emberton, who petitioned the Railway Commissioners to make a siding at Took's-lane, on the Redesdale line of railway?"

"2. When it is intended to open for traffic the Redesdale line of railway?"

Mr. GILLIES said that he had received a memorandum from the Chairman of the Railway Commissioners, stating that the siding asked for would cost a large amount—over £1,000—and it was not considered advisable to incur the expenditure until the experience gained of the traffic showed whether it would be justified. The line would be opened for traffic at the end of the year.

RAILWAY DEPARTMENT.

Capt. TAYLOR asked the Minister of Railways the following questions:—

"1. Whether it is a practice to manufacture rolling-stock at the Railway workshops?"

"2. Whether it is usual to place newly-made bodies on old under-carriages?"

"3. Whether any tenders have been publicly called for the manufacture of refrigerating cars?"

He observed that there was an understanding that the Railway workshops at Newport were only to be used for repairing, and not for manufacturing rolling-stock.

Mr. GILLIES remarked that it was not the practice to manufacture rolling-stock at the Railway workshops. As to whether newly-made bodies were put on old under-carriages, it all depended on whether the latter were fit for the purpose, and that was a matter to be determined by the department. Tenders had not been called for the manufacture of refrigerating cars, because the department determined that it would manufacture the first few cars, so that others might be manufactured on the same plan.

Mr. L. L. SMITH (in the absence of Mr. BENT) asked the Minister of Railways when the Railway Commissioners would increase the number of trains on the Mordialloc line?

Mr. GILLIES said the commissioners considered that at present it was not necessary to increase the number of trains, but they were keeping an eye on the general traffic and accommodation of the line, and when they thought it necessary they would increase the number of trains.

IMPORTATION OF OPIUM.

Mr. ANDERSON asked the Premier what steps, if any, had been taken by the Government to prohibit the importation of opium into Victoria except for medicinal purposes?

Mr. GILLIES stated that he had communicated last year, and again a few months ago, with the Governments of the other colonies, in order to ascertain if they were prepared to take united action in the matter; but he was sorry to say it was difficult to get a conclusive answer from the other colonies on the subject. He had no doubt that the illness of Sir Henry Parkes had caused some delay in New South Wales replying to his communications. In a little while he would send another communication to the different colonies, with the view of joint action being taken in the matter.

MALLEE LANDS.

Mr. DUNCAN asked the Acting Minister of Lands if he had any intention to reduce the application-fee for mallee lands, after the first unsuccessful application, from £1 to 2s. 6d.; and if so, when? He observed that the demand for mallee lands was far in excess of the supply, and there were men in his own district who had made ten separate applications, lodging a fee of £1 with each application, and had yet been unsuccessful in obtaining land.

Dr. PEARSON intimated that it was intended to reduce the application-fee to 2s. 6d. for a space of twelve months after the date of the first application.

EXPORTATION OF BUTTER.

Mr. GRAHAM moved—

“That there be laid before this House a return showing—

“1. The total quantity of butter exported up to date, under the supervision of the Agricultural department, on which a bonus has been claimed.

“2. The names of the merchants, companies, factories, and individual farmers claiming the same.

“3. The price per pound at which the butter was sold in the London or other markets, and the amount of bonus claimed in each case; also the total quantity of butter imported into the colony for the twelve months ending the 31st May last.”

Mr. HALL seconded the motion, which was agreed to.

DISTRESS FOR RENT LAW AMENDMENT BILL.

Mr. WRIXON moved for leave to introduce a Bill to amend the law relating to distress for rent, and for other purposes.

Mr. GILLIES seconded the motion.

Mr. MUNRO asked the Attorney-General if the proposed Bill was the same as that submitted last session? (Mr. Wrixon. — “Substantially the same.”) Then he hoped it would never be passed.

Mr. DIXON observed that it would be useless taking up the time of the House in discussing the Bill if it was the same as that proposed last session. He did not believe there were five members of the House, and he was certain there was not 10 per cent. of the community, who were at all in accord with the Attorney-General on the subject of this Bill. Therefore it was simply frivolous and vexatious to occupy time with such a Bill when other measures of a useful character should be introduced. In all sincerity he would ask the Attorney-General to cast the Bill into the waste-paper basket.

The motion was carried without a division.

The Bill was then brought in, and read a first time.

MELBOURNE AND METROPOLITAN BOARD OF WORKS BILL.

On the order of the day for the House to resolve itself into committee for the purpose of considering the Governor's message on the subject of this Bill, presented June 11,

Mr. GILLIES said—Mr. Speaker, I think it will be convenient, at this stage, and before the Bill is circulated to the public, for me to make a short statement, not only of the contents of the Bill, but also as to how far it differs from the Bill which was framed by the local bodies and, some few years ago, presented to the Government. Of course, that Bill has been since under the consideration of the Government, and the Government in framing their measure felt it to be their duty to make some alterations and changes in it, to which I will call the attention of honorable members more particularly later on. I may say, however, that

Parliament has now an opportunity of dealing with this question by having a Bill before it in a way it never had before. The subject of the creation of a body which would represent the whole of the local bodies in the metropolitan area is a subject which has engaged the attention of the various local bodies for a great many years. It took form and substance nearly twenty years ago, but owing to differences among the local bodies themselves and their representatives—owing to the difficulties they had in coming to an agreement as to the proper and fair representation which they would be able to obtain on this proposed Metropolitan Board of Works—it is only very lately—within the last two or three years—that they have been able to come to an amicable arrangement as to the proposals to be placed in a Bill. When one runs his eye over the variety of proposals that have been from time to time submitted by these local bodies to the various meetings they had to consider the question, it is somewhat singular to observe the differences of opinion that have taken place. Some years ago the number of representatives considered sufficient to be placed on the Metropolitan Board of Works was as low as 35, while on another occasion the number recommended rose as high as over 200, while in the Bill submitted by the representatives of the local bodies to the Government the number is 63. In view of these great differences, it is very difficult to see exactly what principle has guided the local bodies in coming to a conclusion as to the proper number of the board. The local bodies also exhibited very different views some years ago from those they express now as to the subjects which the Metropolitan Board of Works should be called upon to deal with. Some time ago nearly every subject that a local body could be supposed to be interested in was considered a fit subject to be dealt with by the proposed metropolitan board. For instance, such subjects as main drainage, water supply, tramways, lighting, general sanitary supervision, the care of parks, reserves, and cemeteries, the administration of the law relating to hackney carriages, the care of main roads within the limits which were under the control of the Central Road Board—all these were subjects which, some years ago, the local bodies thought it was extremely desirable should be handed over to the metropolitan board. Now, however, the local bodies have changed their views in this respect, and they simply propose to leave

Mr. Gillies.

to the administration of the metropolitan board two very important questions, and to confine the board to those two. One is the water supply of Melbourne—that is, including the whole metropolitan area; the other is the construction and management of sewerage in all its branches. These are the two subjects which the local bodies have now agreed should be dealt with by the Metropolitan Board of Works. A subject of very great difficulty which the local bodies had to consider in the first instance was the constitution of this board. Of course the constitution of the board necessarily affects the number of the members who are to be on it. Then came the question how they should be elected—whether they should be chosen by the ratepayers or whether they should be elected, or it might be said nominated, by the various local bodies to be represented on the board, and the principle upon which the representation should take place. I believe nearly all came to the conclusion, even at an early period, that the persons who were to be on the metropolitan board should be persons elected or nominated by the various local bodies—that they should not be elected by the ratepayers in the same way as the local councillors. The local bodies were of opinion that if the members were nominated by the councils it was probable that men of greater experience and men with greater capacity and qualification for the performance of their duties on the metropolitan board would be selected than if the election was made by the ratepayers direct. At any rate that was the view taken generally by the local bodies, and that is the view embodied in the Bill they presented to the Government. I may say also that that is the view which the Government has been prepared to accept. The proposed metropolitan board will, as I have indicated, represent the metropolitan area—that is, the area within about ten miles from the General Post-office. Now touching upon the question as to what the number of the board should be, there have been, as I have said, a great variety of opinions expressed, even since it has been pretty well known what was the opinion of the local bodies as expressed in their Bill. The opinion of the Government is, that if we could arrive at such a number as would truly represent the various local bodies in the metropolitan area, and yet not be too large to transact the work which the board would have to do with thorough efficiency, we would then have the right number to adopt. The local bodies have fixed the number at

63 in their Bill. Strong opinions have been expressed as to the adoption of that number. The principle on which the local bodies have gone is this—that the various local bodies are entitled to send members to the Metropolitan Board of Works according to the annual value of the rateable property in their several municipalities. As we know, there are some municipalities with a very considerable area and with very valuable property, and the annual value of their rateable property is very large; in others it is comparatively small. And the proposal of the local bodies is to divide the municipalities into groups. Group A would contain municipalities the annual value of whose rateable property is under £50,000. They recommend that these should each have one representative on the metropolitan board. In Group B we have municipalities where the rateable property is £50,000 and under £100,000 in annual value; these would be entitled to have two members on the board. Group C includes municipalities with rateable property £100,000 and under £300,000 in annual value; these would be entitled to three members. Group D comprises municipalities where the rateable property exceeds £300,000, and these would be entitled to four members. It was further provided that the city of Melbourne should at all times have a number of representatives equal to one-fifth of the whole body. I may mention that the Sanitary Commission has taken a great interest in this subject. They carefully considered the whole of the Bill proposed by the local bodies—of which I sent them a copy—and of course their great object in considering the Bill was with the view of making such suggestions as would in their opinion secure the establishment of as perfect a board as possible. As the work which the commission were requested to inquire into was somewhat of the same character as a large portion of the work which the metropolitan board would be called upon to do, it was not an unreasonable or improper thing to give the commission an opportunity of considering the proposals in the Bill, and making such observations as they might feel justified in making. The Sanitary Commission very strongly objected to what they considered the excessive number of members proposed to be placed on the board. They say—

“In our opinion great executive and administrative works, such as these involved in the sewerage and water supply of the metropolis, cannot be conducted to advantage by so large a

board. We would submit, that by multiplying the number of members—(1) The sense of individual responsibility of the members is seriously diminished; (2) a full personal knowledge by all members of the nature of proposed works is rendered extremely improbable; (3) continuity of action of the board is endangered; (4) the prompt and effective conduct of business is impeded; (5) facilities are afforded for combinations for the promotion of local interests as against a sound general policy; (6) a kind of municipal parliament is established instead of an executive and administrative board.”

Mr. L. L. SMITH.—How many members on the board?

Mr. GILLIES.—In the Bill submitted by the local bodies there are 63 members proposed. According to that Bill the 63 members would be elected as follows:—By the mayor, aldermen, and councillors of the city of Melbourne, from among themselves, twelve members; by the mayors and councillors of South Melbourne and of Prahran, from among themselves, four members each; by the mayors and councillors of Fitzroy, Richmond, St. Kilda, Collingwood, Hawthorn, and North Melbourne, from among themselves, three members each; by the mayors and councillors of Brighton, Kew, Essendon, Brunswick, Caulfield, Footscray, Williamstown, Port Melbourne, Malvern, Boroondara, and Flemington, from among themselves, two members each; and by the councillors of Coburg, Northcote, and Preston, from among themselves, one member each. That is the proposal contained in the Bill of the local bodies, and it is against that proposal the Sanitary Commission wrote the paragraph I have read. The commission further say—

“We submit that it would be far better that the municipalities should be so arranged in groups for purposes of representation that every elected member of the board should represent one large united interest, amounting in annual value of rateable property to a sum not far removed from £1,000,000. Such groups might be constituted as follow:—

	Annual Value of Rateable Property.
“a The city of Melbourne ...	£1,269,260
“b Fitzroy, Richmond, Collingwood, North Melbourne, and Flemington	887,274
“c St. Kilda, Brighton, South Melbourne, Footscray and Williamstown ...	917,561
“d Prahran, Caulfield, Malvern, Boroondara, Hawthorn, Kew, Northcote, Preston, Essendon, Brunswick, and Coburg ...	1,088,868

“In our opinion each of these groups would have definite large interests, which rightly demand representation on the board.”

Again the commission state—

"We are strongly of opinion that the Government of the colony should be substantially represented on the board. As drafted, the Bill proposes to transfer to or vest in the Board—

"1. All property in connexion with the water supply of the metropolis now vested in the Board of Land and Works, or reserved, set apart, or used for the purposes of Part 5 of the Public Works Statute 1865.

"2. All sewers, drains, and works connected therewith situated within the metropolis and vested in the Board of Land and Works.

"3. All the bed, soil, and banks of the River Yarra Yarra, and other public rivers, creeks, and water-courses within the metropolis (except so much thereof as is vested in the Melbourne Harbour Trust Commissioners), but subject to the estate and interest of any person therein existing at the time this Bill becomes law.

"We submit that property so valuable as the metropolitan waterworks should not be ceded by the Government to any board on which the Government is not substantially represented; that the same policy should be pursued as in the creation of the Melbourne Harbour Trust, which consists of twelve members elected by the bodies chiefly interested, and five members appointed by the Governor in Council."

With regard to the number of members they say—

"After careful consideration we beg to recommend that the Melbourne Metropolitan Board of Works be constituted as follows:—

"Three members nominated by the Governor in Council; two members elected by the mayor, aldermen, and councillors of the city of Melbourne; two members elected by the mayors and councillors of the municipalities of Fitzroy, Richmond, Collingwood, North Melbourne, and Flemington; two members elected by the mayors and councillors of the municipalities of St. Kilda, Brighton, South Melbourne, Port Melbourne, Footscray, and Williamstown; two members elected by the mayors and councillors of the municipalities of Prahran, Caulfield, Malvern, Boroondara, Hawthorn, Kew, Northcote, Preston, Essendon, Brunswick, and Coburg."

In all making eleven members to constitute the board, and of those eleven members three were to represent the Government. Now I may say that most careful consideration was given by the Sanitary Commission to this subject, and, no doubt, there is a great deal of weight in a considerable portion of their arguments. At the same time, the Government saw considerable difficulty in adopting their recommendations with reference to the important question whether the Government should be represented on the board or not. After great consideration, the Government arrived at the conclusion that it was not necessary, and that it was not desirable, in their judgment, that the Government should be

represented on the Metropolitan Board of Works. On that board will be representatives of all the metropolitan municipalities, and they will have work to carry out which will be their own, and which they propose to pay for.

Mr. WOODS.—Who will find the money?

Mr. GILLIES.—I will deal with that question in a minute. It is proposed that the board shall buy from the Government the metropolitan waterworks—the Yan Yean with all its connexions and the Watts scheme—at a price to be determined, and it is also proposed that the board shall carry out one of the most difficult as well as one of the most important works, namely, the sewerage not only of Melbourne but of the whole metropolitan area. That is a work of great importance and unquestionably of great magnitude, and one which cannot be much longer delayed without great detriment to the health, wealth, and advancement of the city. In connexion with a work of that kind, the Government felt that it was not called upon to undertake such a large responsibility as would be involved in its having nearly one third of the representation on the Metropolitan Board of Works. It certainly is not necessarily a work for the Government to undertake, and the Government was of opinion that a body representing all the local bodies interested would be very much better fitted to undertake and carry out a work of that character than even the Government itself. Under these circumstances, the Government did not see its way to undertake the responsibility of proposing that it should be represented on this board. But while the Government was not prepared to have representatives on the board, it was forced to the conclusion that the number of members proposed by the local bodies was too large for the proper working of the board. In fact, with such a number of members as 63, the board would be more like a little parliament than a body that had to carry out executive works. It is essentially an executive body, and an executive body ought never to be too large in number. The Government felt that the local bodies would be able to obtain efficient and satisfactory representation for the purpose of carrying out these works by limiting the number of members to, say, 38.

Mr. L. L. SMITH.—A dozen would be enough.

Mr. GILLIES.—One very important consideration which weighed with the Government in making the number even so large was that on more than one occasion

Mr. Gillies.

the local bodies themselves have come to the conclusion that the number should be 35, and the Government felt that they were pretty nearly approaching the views which the local bodies held for a number of years in fixing the number at 38.

Mr. T. SMITH.—The metropolis was much smaller then.

Mr. GILLIES.—I am aware of that, but still I am of opinion that some of the local bodies would be as well represented by one or two as by half-a-dozen members. Another consideration which had weight with the Government in fixing the number was that they thought it would not be wise to unduly mix up for election purposes various municipalities, which had separate interests that would be affected by the works to be carried out. The recommendations of the Sanitary Commission would have the effect of joining together, in electing two members to the board, a number of municipalities which had different and to some extent antagonistic interests. The Government felt that it would be better, if possible, that the members should be able to separately represent their own local bodies, and then join in a union of opinion as to the best thing to be done. It was felt that there would be great difficulty indeed in inducing a number of the local bodies to join in the way recommended by the Sanitary Commission, and, under these circumstances, the Government endeavoured to find such a number as would be able to well carry out the work, and yet at the same time would be fully representative of the local bodies interested. The number which the Government fixed upon and which they have placed in the Bill is 38. The basis of representation as provided in the Bill of the local bodies had reference to the rateable value of the property in the various municipalities. In considering this matter, the Government were not perfectly satisfied that the annual value of the rateable property alone ought to determine the number of members representing a municipality. There are cases in which a municipality with a much smaller population than another might have property of a much higher rateable value, and in such a case, under the Bill submitted by the local bodies, a municipality might have a larger representation than was commensurate with its importance in other respects than the value of its property. The Government therefore came to the conclusion that, while they were justified in looking largely to the valuation, they had a right also to take into consideration population—

to have regard to both. It is curious to find that, taking both these elements into consideration, the difference between the calculation as to the proportion of representation in the proposal of the local bodies and the proposal contained in the Bill is after all very slight. Of course the Government, in working the matter out, were pleased to find that the representation based on valuation and the representation based on population came out very much alike. They were therefore in a position, without having such a large number of members on the board—while reducing the number to 38—at the same time to give such a fair division amongst all the municipalities interested as would afford each of them fair representation. I may mention here that my own opinions on this subject have very considerably changed since the local bodies put their hands to the mill; and one reason for this is the way in which the value of rateable property in the city and suburbs has advanced. For instance, take the case of the city. At the time the local bodies' Bill was framed Melbourne proper had a valuation of only £1,269,260, but look at the increase since. The same thing may be said for most of the municipalities around Melbourne. In fact, the rateable value of city and suburban property all round has gone up on a ratio which places it very much in advance of what it was only a very few years ago. So it comes out that under this system of only 38 members for the board Melbourne will have seven members upon a valuation of £1,716,166, which is as nearly as possible one-fifth of the entire representation. The distribution of the 38 members to be elected will be as follows:—

Municipality.	Annual Value of Rateable Property.	No. of Members
Melbourne ...	£1,716,166	7
South Melbourne ...	650,000	4
Fitzroy ...	340,467	2
Footscray ...	155,648	1
Boroondara ...	150,677	1
Richmond ...	300,220	2
North Melbourne ...	172,284	1
Caulfield ...	206,802	1
Brunswick ...	204,447	1
Prahran ...	533,702	3
Collingwood ...	273,961	2
Essendon ...	180,732	2
Flemington & Kensington	83,000	1
St. Kilda ...	305,506	2
Northcote ...	96,980	1
Coburg ...	93,000	2
Preston ...	91,000	1
Brighton ...	139,887	1
Kew ...	121,412	1
Malvern ...	202,011	1
Hawthorn ...	203,413	2
Williamstown ...	102,651	1
Port Melbourne ...	106,489	1

Mr. LAURENS.—Will there be any sliding scale to meet alterations of the valuations?

Mr. GILLIES.—No; these are, so far, permanent fixtures. To the plan laid down by the local bodies in this direction the Government took very great objection. The local bodies provided that, although in their Bill the number of representatives was originally fixed at 63, it might be increased indefinitely according to any increase in the value of the rateable property concerned. But to what would such an arrangement give rise? One year you might have the rateable value below a certain maximum, and another year it might rise to an extent which would entitle the municipality concerned to an extra member. So that before long the number of members might rise to 90, or even to more than the number of the members of this Chamber. In fact, it would be no great stretch to imagine the board becoming equally numerous with both Houses of Parliament. In addition, the local bodies' Bill provided that, no matter by how much the number of representatives increased, the city of Melbourne should always be entitled to one-fifth of the representation.

Mr. BEST.—No increase after £300,000.

Mr. GILLIES.—Nevertheless, each municipality could rise to four representatives. At present the majority of them are not entitled to more than two representatives each, and a very great many are only entitled to one, but in a few years each of them might reach the maximum and be entitled to four representatives. And then the case of Melbourne has to be considered. So that the honorable member's interjection practically supports what I say. Well, with a representation of four members per municipality, to have the city of Melbourne still entitled to one-fifth of the entire representation would be a very serious affair, and in view of the whole case the Government came to the conclusion that to leave the number of representatives doubtful by making it subject to expansion according to a sliding scale would establish a very undesirable system.

Mr. MADDEN.—It is exactly the system which the New South Wales Legislature are trying to get rid of in their own case.

Mr. GILLIES.—Yes, the proportionate principle is a leading feature of the Electoral Act of New South Wales, where a certain increase in the population of a district entitles it to additional representation. This arrangement has been very much regretted from

almost the time it was made, and the New South Wales Legislature has at this moment under its consideration a Bill to alter it. What I desire to impress upon honorable members is that the Government feel that it will be very well to adopt, with respect to the Metropolitan Board of Works, a system like that which obtains under our own Electoral Act—that is to say, one under which, when circumstances justify a change in the scope of the representation, it will be quite time enough for Parliament to review the whole situation. I think we must all come to the conclusion that the maximum number of members of the board should be fixed for the present at 38. I am sure that 38 members will do the work of the board admirably, because that work will be mostly of a practical nature, and require close attention to administration, which attention can unquestionably be better given by a comparatively small body than by a very large body. One important determination arrived at by the local bodies with respect to the constitution of the board quite meets with the approval of the Government. It is that it should not be necessary for the chairman of the board to have been in the first instance a member of the board—to have been returned as a member by any one of the councils concerned. The board are to be able to elect some one outside their own body as their chairman, and they will also be empowered to pay him such a salary as would justify him in giving his whole time to the work of the board. This proposal was contained in the Bill prepared by the local bodies, and the Government have adopted it, believing that the effect will be to enable the board to obtain from time to time the services of the gentlemen most capable of performing the duties of the office. Of course if they selected a chairman from among themselves, a vacancy would so far be created in the representation of the board.

Mr. TURNER.—How do you provide for retirements?

Mr. GILLIES.—There is sufficiently careful provision for all cases of retirement. Various Acts of Parliament deal with the question of retirement in the case of members of municipal bodies, and it will be seen that the Bill adopts the principle which experience has shown to be the best. Another point is rather important. In connexion with the waterworks to be handed over to the board there are at present a number of officers, and the Government have had to determine what should be done

with respect to them. The conclusion at which we arrived might, I imagine, be anticipated from the action which was taken when the Hobson's Bay lines were acquired by the State, and also when certain works were handed over to the Harbour Trust. In fact what we propose is, that the officers connected with the Melbourne Water Supply Works shall be taken over by the board as soon as that body gets to work. Another momentous question arising in connexion with the Bill is that with respect to vesting in the board the whole of the land which is now occupied or which may hereafter be required for water supply purposes. This land, which may be regarded as divided into two different portions, consists, in the first place, of the 75,000 acres or thereabouts which have been reserved and are now in use for the purposes of the metropolitan water supply; and, in the second place, of the 140,000 acres or thereabouts which have been reserved for those purposes, but which have not yet been taken into use for them. Perhaps they may not be required for the metropolitan water supply for many years to come. Still their reservation was absolutely necessary, because it is recognised that the time will come when the city and suburbs will have grown so large as to have something like 1,000,000 or 2,000,000 inhabitants; and it would, of course, be a great mistake to allow the lands which might be required for the water supply of so large a community to pass out the hands of the State. So that, in addition to the 75,000 acres now used as a drainage area for the supply of water to the metropolis, there are 140,000 acres more to fall back upon for the same purpose—an area capable of affording what might be called an almost unlimited supply. The whole of this land—the land now in use, and that which may hereafter come into use—will be vested in the board, and its extent and nature will be found set out in the 3rd schedule to the Bill. In connexion with this matter, the framers of the draft Bill of the local bodies made what the Government regard as a very unwise proposal, and I am sure that had the gentlemen concerned duly considered the matter they would have taken the same view. The proposal was to vest the whole of these reserves in the board, with power to sell or dispose of any portion of them as they might from time to time think proper. Now, no one supposes for an instant that the board would improperly sell or dispose of any part of these lands, or, indeed, that

there was any design that they should have it in their power to do so. The idea was, of course, simply to make the vesting arrangement wide enough to cover everything. But the Government think that that would be doing too much. Surely it would be a terrible mistake to enable the board to part with any of the land entrusted to them by the Legislature without the consent of Parliament. So that in preparing the present Bill we struck out the clause in question, and the only power the board will have to dispose of any of the land in their hands will be the power of dealing with any land which they may have from time to time purchased for various purposes. It is necessary to give such a power, because, for one thing, it may often happen, in acquiring land for any particular purpose they have in view, that they think fit, for the sake perhaps of getting better terms or for some other reason, to purchase a larger area than they actually require. It will then become possible, as has been sometimes the case with the Railway department, for them to by-and-by sell the portion they do not want at a much higher rate per acre than they originally gave for it. It will be interesting to honorable members to hear some particulars relative to the existing water supply works. Unfortunately the return on the subject which has been prepared is not to hand, but I can give its substance. The present water supply to the city has to be at the rate of 22,000,000 gallons per day, but under the improvements which have been lately effected the supply is equal to 30,000,000 gallons per day. As soon, however, as the Watts River scheme is connected with the Yan Yean works, which is expected to take place in October next, another 25,000,000 gallons per day will be available, and this addition will be capable of almost indefinite extension. In fact, by erecting another dam, at a comparatively small cost, and making the sides of the aqueducts a little higher, the supply from the Watts River scheme can be doubled—it can be made to supply 50,000,000 gallons daily. A very great portion of the additional expenditure required to enable the scheme to yield this enormous supply has been already gone to, in anticipation that some day the increase will be needed. In short, the works which will be completed in October next can, at a comparatively small outlay, be made capable of supplying 55 gallons per day per head to a population in the city and suburbs of no less than 750,000. It is a

circumstance to be carefully noted that the changes which have been effected during the last few years will render so magnificent a water supply a matter of comparatively easy consummation.

Mr. LANGRIDGE.—And there are other sources also to draw upon.

Mr. GILLIES.—Yes, many other sources.

Mr. GRAVES.—Will the board be able to increase the water-rate?

Mr. GILLIES.—No, the board will not be able to increase the rate. This is a very important question for every one, because it will probably depend upon the board not being forced to reduce the rate whether they will have sufficient margin to go upon for the expensive works which will be required for sewerage purposes. I will now state shortly the terms upon which the works will be taken over by the local bodies. Before doing so, however, I will mention the idea on this head which was put forward by the local bodies in their Bill. It was not very clearly expressed. Perhaps that was because it was thought best that the precise plan should not appear too clearly. But two things were quite clear—first, that they proposed that one accountant should be appointed by the Board of Land and Works, that another accountant should be appointed by the Metropolitan Board of Works when constituted, and that a third accountant should be made referee; and secondly, that these three accountants should be appointed, not to ascertain exactly the value of the property to be taken over, but for the purpose of striking a debit and credit account, the outcome of which would be to show what the board should be willing to pay. In fact, the result was to be such that if the two accounts absolutely balanced, the board would get the property for nothing.

Mr. G. D. CARTER.—Well, would not that be fair? Have we not already paid the whole of the money?

Mr. GILLIES.—I think not. Moreover, I am under the impression that Parliament would scarcely listen to any proposal of the kind. For instance, the State is under obligations which it has to wipe off. We owe on account of these works money which we have borrowed, and on which we have to pay interest regularly; and in addition we have to pay back the principal when it becomes due. We are prepared to ask Parliament to hand over the whole of these works to the board, but we propose at the same time that the board shall in return place themselves with respect to those works in exactly the

position now held by the Government. Briefly, the board are to step exactly into the shoes of the Government. We owe, under different Loan Acts, large sums of money, the last of which will become repayable, I think, in 1923; and, besides, every two or three years we are called upon to meet some obligation of the same kind falling due in the interim. Now, if we hand over the works to the board, who should repay these loans?

Mr. G. D. CARTER.—Those who borrowed the money, of course.

Mr. GILLIES.—I say that it is evident that those who get this valuable property—I have explained pretty well how valuable it is—ought to become responsible on their own account to exactly the extent to which the Government are at the present time responsible; that is to say, the board ought to pay interest on the loans incurred, and repay the principal of the same when it falls due. They will then bear the same responsibilities which the Government now bear, and which are set out in the 4th schedule to the Bill. The amounts are set out in that way in order that there should be no dispute with respect to them. They show exactly how the Government stand—the sums borrowed, the interest payable at different periods, when the various debentures fall due, and so on—and their accuracy is certified to by the Audit Commissioners. The total amount of principal at present outstanding is, in round figures, £2,140,000. Well, if the metropolitan local bodies desire to get these works, they can have them on those terms.

Mr. STUART.—I will give £3,000,000 for them myself.

Mr. GILLIES.—There is, however, another sum to be mentioned, namely, the £800,000 which this country borrowed in different sums from time to time for the purpose of constructing the Yan Yean waterworks, and which has, in the fullness of time, been repaid out of the Treasury. It is proposed to charge the board with that sum. They will be charged, not with the interest paid in the past, but only with the principal, which will bear interest, like other loans, at the rate of 4 per cent. At the same time, lest any honorable member or any metropolitan local body should be alarmed at the obligations the board are to have imposed upon them, I will ask attention to a few facts which will show those obligations to be, after all, only a very small thing. Of course, the board will have power to levy a water-rate up to 6d. in the £1,

and in addition the various local municipalities concerned will have power to levy another rate of 6d. in the £1. Well, a rate of 6d. in the £1 upon the value of all the rateable property in all these municipalities will amount to a revenue of about £150,000 per annum. That is the sum as near as possible. The value of the rateable property in Melbourne and the suburbs, that is to say the total sum annually derivable from that property in the shape of rent, is about £6,000,000, and 6d. in the £1 upon that amounts to £150,000. Now I want to point out that the additional 6d. in the £1 will never be required at all. Let me show the present position of the Government with reference to the Yan Yean water supply. For example, I will take the gross revenue for, say, 1888-9 at £181,813, against which the following expenses were chargeable:—

Salaries	...	...	£14,885
Contingencies	...	...	2,978
Maintenance	...	...	5,999
Interest on loans (say)	...	...	66,713
Total	...	...	90,575

This £90,575 being deducted from the gross revenue of £181,813 leaves a net revenue of £91,238.

Mr. G. D. CARTER.—But we are to pay interest on £3,000,000 instead of on £2,140,000.

Mr. GILLIES.—What I desire to show is the magnificent nature of the gift the local bodies are to receive in the shape of these waterworks.

Mr. T. SMITH.—At the price named?

Mr. GILLIES.—Yes, at the price named.

Mr. G. D. CARTER.—Which means that we are to pay interest and principal on not only the £2,140,000 now owing, but on £800,000 besides, although the debt has been already cleared off.

Mr. GILLIES.—I wish to show how the revenue from the Yan Yean department has been gradually increasing year by year. I am not however going to take, in the calculation I am about to give, the full amount of that increase. I shall reckon only on an average increase in revenue amounting to £4,000 per annum. To begin with, I assume that in 1891-2 the net revenue will be £95,000, which, less interest on £800,000 at 4 per cent., namely £32,000, will leave a balance available of £63,000. In 1892-3 the net revenue will be £99,000, but I anticipate that by then, the board having been constituted for fully twelve months

and got into working order, will have borrowed £500,000 more. It will, doubtless, have seen its way by that time to determine upon some grand scheme of sewerage for Melbourne and the suburbs, and to go to the London money market for a loan of £500,000 additional, to enable it to make a commencement with the scheme. Therefore the interest payable in that year will be not only the £82,000 on the £800,000 I have mentioned, but £20,000 more. This will make the total interest payable in that year £52,000, and leave a further balance to credit of £47,000, which, added to the £63,000 balance from the previous year, will constitute a total balance to credit up to that time of £110,000. In 1893-4 the net revenue will be £103,000 which, with the £110,000 carried forward, will make a balance of £213,000, from which sum will have to be deducted as interest no less than £72,000, for I reckon that the additional loan will have amounted by that time to £1,000,000. This £72,000 taken from the £213,000 will leave £141,000. In 1894-5 the net revenue will be £107,000, which, added to the £141,000, will make £248,000. But this will be subject to the deduction for interest of no less than £92,000, for I anticipate that the loan of £1,000,000 will have amounted by then to £1,500,000, so that, at the end of 1894-5, there will be a balance to the good of no less than £156,000. In 1895-6 the net revenue will be £111,000, which, added to the £156,000, will make £267,000. This amount will, however, be subject to the deduction for interest of £132,000, for the loan of £1,500,000 will have assuredly amounted by then to £2,500,000—it would be absolutely impossible to carry out the sewerage scheme with less. So that at the end of that year the balance to credit would be just £135,000. In 1896-7 the net revenue will be £115,000, which, added to the £135,000 just mentioned, will make £250,000. From this there will have to be deducted as interest £152,000, namely, the £32,000 interest due on the £800,000, and the £120,000 interest due on the additional loan which will by then have reached £3,000,000, the total sum the board will be authorized to borrow. This body will therefore be left at the end of 1896-7 with a balance of £98,000 in its favour, it having at the same time exercised its powers in the direction of constructing sewerage works with borrowed money to the fullest extent. And all this will be done, I beg to remind honorable

members, without any resort to an additional rate. Besides, it is a matter of fact that the annual increase in the Yan Yean revenue may be reckoned at something much more than £4,000 a year. I have, however, been careful to be under the mark rather than run any chance of a mistake in the calculation, or of misleading any one.

Mr. CLARK.—What about the interest on the original £2,140,000?

Mr. GILLIES.—I am speaking now of the net balance paid into the Treasury up to last year on account of the Yan Yean water-rates, after paying interest on the money borrowed for the construction of those works. So that when the Melbourne water supply is handed over to the Metropolitan Board of Works that body will have a magnificent capital to go upon, and it will not require to levy an extra rate of even 1d. in the £1, let alone 6d. in the £1, which it will have the power to impose. The Metropolitan Board of Works will be able to borrow money in the London market at 4 per cent. year by year, as money may be required, up to £3,000,000; and even if the board should borrow to the full extent of its powers it will be able to pay the whole of the interest on that £3,000,000 out of the profits from the Yan Yean water supply without levying a farthing extra in rates.

Mr. ZOX.—The board would get a premium on its 4 per cent. loans.

Mr. GILLIES.—I have no doubt it would.

Mr. TURNER.—Will the board be able to pay interest each year after it has borrowed to the full amount?

Mr. GILLIES.—There is no doubt whatever of it. The income of the Melbourne water supply will increase year by year as the population of the metropolis increases, and everybody will recognise that the Metropolitan Board of Works will have in the Yan Yean water supply one of the most splendid properties ever handed over to local bodies in this or any other metropolis. In saying this I do not desire that it should be inferred that in my opinion the local bodies of the metropolis are not entitled to the Yan Yean waterworks, because I think they are entitled to those works. And if any local bodies in the provinces were to say to the Government, "We desire to take over our water supply, and we are prepared to undertake all the responsibility in respect of our waterworks now resting on the Government," I do not believe any Government or any Parliament of this colony would refuse to grant their request. If, say, the

local bodies of Sandhurst and Ballarat were in a position to take over their waterworks on the same terms as the Yan Yean works are to be transferred to the Metropolitan Board of Works, I have not the slightest doubt that the Government and Parliament would meet them in the same ungrudging spirit as we propose to meet the local bodies of the metropolis, and, in the public interests of those who are most concerned, would be ready to transfer the local waterworks to such bodies as were prepared to undertake to pay everything for which the Government is now responsible in connexion with those works. I believe that the management of the Yan Yean waterworks by the Metropolitan Board of Works will be such as to reflect credit on the gentlemen who will constitute that important corporation.

Mr. TURNER.—When the Metropolitan Board of Works has borrowed to the full extent of its powers, the interest it will have to pay will be £240,000 a year.

Mr. GILLIES.—That is including the interest on the existing loans; but of course many of these loans will fall due from time to time, and the Metropolitan Board of Works will be able to get new loans on the London market at a less rate of interest than is paid on the present loans. There is no doubt whatever of that. The Board will have such a magnificent property and so much power of levying rates as to offer the best possible security, and English capitalists will not hesitate to lend their money to the Board at the lowest rate of interest. In January, 1894, there is a sum of £30,000 to be paid off, and of course the board will be able to get another loan in place of that at a lower rate of interest.

Mr. ZOX.—What is the rate of interest payable on that £30,000?

Mr. GILLIES.—I think it is $4\frac{1}{2}$ or 5 per cent.; at any rate there will be a saving there.

Mr. TURNER.—Have you allowed for these savings of interest in making the calculations you have already given to the House?

Mr. GILLIES.—No; I did not make any allowance in respect of these reductions of interest at all. I took the highest interest they were likely to have to pay if they went into the London market for £500,000 or £1,000,000 for the construction of sewerage works. There is a sum of £276,000 due in 1901, a sum of £233,000 due in 1904, and other sums at various periods up to 1923.

Mr. ZOX.—Can you tell us the rates of interest on those loans?

Mr. GILLIES.—I have not the information at hand, but in no case is the interest less than 4 per cent., and in some cases it is higher— $4\frac{1}{2}$ or 5 per cent.

Mr. ZOX.—At any rate there will be a saving of interest after those loans are renewed.

Mr. GILLIES.—Certainly. The provision made in this Bill with reference to the payment of interest and the repayment of the principal is the provision usually made in such cases. The Metropolitan Board of Works must pay the interest on certain dates that are fixed in the Bill, or if it does not there is power to apply to the Supreme Court to appoint receivers, as in every other case. But there is a difference in regard to the repayment of the principal. If the board does not provide in London or in Melbourne, as the case may be, the money to repay the principal as it falls due, then the whole of its works are by that default vested in the Board of Land and Works, but as soon as the principal is paid by the metropolitan board the works are to be re-vested in the board.

Mr. BURROWES.—The Government might make a large loss there.

Mr. GILLIES.—I don't think that such a thing as default in the repayment of the principal is ever likely to happen at all. I don't think there is the slightest possibility of the Metropolitan Board of Works failing to meet its obligations in respect of either interest or principal; at any rate, I hope not.

Mr. BURROWES.—And we hope not; but such a thing seems to me to be quite possible.

Mr. GILLIES.—The great work which the Metropolitan Board of Works will be called upon to undertake will be the sewerage of Melbourne and suburbs. Something was said a little while ago about the Government not having made sufficient efforts to obtain the necessary information for Mr. Mansergh when he was out here. As a matter of fact, the Government made every effort to provide the information. Before Mr. Mansergh came here, the Government undertook on their own responsibility to ascertain who was the best man they could get to consider and report as to the scheme of sewerage most suitable for Melbourne and suburbs—the scheme best fitted to meet its requirements—and after full and careful inquiry they decided to send for Mr. Mansergh, and undertook to pay him a large sum of money—£4,000—so that the Metropolitan Board of Works, when created, might have all the

necessary information available to enable them to arrive at a determination as to the sewerage scheme best fitted to meet the needs and circumstances of the metropolis.

Mr. BURROWES.—Of course the metropolitan board will have to pay that £4,000?

Mr. GILLIES.—Certainly; and it is a very proper charge. If the Government had not anticipated the requirements of the Metropolitan Board of Works it would have been a very great mistake, because it would have delayed the carrying out of a scheme of sewerage probably for several years after the board had been constituted, and therefore I take credit to the Government for having sent to England for one of the leading sanitary engineers to report as to the scheme of sewerage best adapted to the requirements of Melbourne and the suburbs. There are one or two very important points in connexion with this matter which I desire to mention for the information of the House. I asked Mr. Black, the Surveyor-General, the principal officer in the Lands department, who undertook at my request to obtain a variety of valuable information which was indispensably necessary for Mr. Mansergh, to furnish me with a report, and honorable members will find, on investigation, that a large amount of work was done before Mr. Mansergh came to the colony. I will read a portion of the report which I have received from Mr. Black, and in the course of which he writes:—

“As clearly stated in my letter already referred to, and in subsequent memoranda, I never looked on the existing surveys of Melbourne as sufficient to enable Mr. Mansergh or any engineer to prepare a scheme of underground drainage, ‘complete in every detail, with drawings, and an estimate of the cost.’ At the same time I was and am still of opinion that the contour plan which has been prepared supplies the requisite data to enable him—(1) to decide on the method of dealing with and disposing of the sewage; (2) to determine on a general system of underground drains suited to the conditions of the locality and sketch out its salient features, leaving its elaboration and extension to be worked out as circumstances require; (3) to furnish a rough estimate of the total cost of the works. It is to be inferred from the tenor of Mr. Mansergh's letter to the Agent-General, dated 25th April, 1889, prior to his accepting the commission to visit and report, that this was the view he himself took of the scope of his mission, and that the preparation of the working plans and accurate estimates must follow at a later stage. No doubt this must be the case, and therefore it is not to be expected that his first report can do much more than demonstrate and sketch out the basis of a general scheme. But this is a very important part of the subject, in fact, to my mind, the most important; and if Mr. Mansergh's report will settle these questions in the best possible

manner, as there is every reason to anticipate it will, from his well-known ability and experience, he will have earned his fee, if he does nothing more."

In a previous report, Mr. Black stated—

"The following are the chief points which Mr. Mansergh, in my humble opinion, should be expected to deal with in his report:—(1) The boundaries of the proposed metropolitan district. (2) The question of finally treating and disposing of the sewage. (This is the all important point.) (3) The size and approximate course of the outfall or outfalls; their form and construction. (4) His general scheme of main and intercepting sewers; their capacity and construction. (5) The probable power necessary to raise the sewage from the low levels to the point or points of discharge, with the nature and cost of the machinery required. (6) An approximate estimate of the cost of these main works. I do not think, with the time and information at his disposal, that Mr. Mansergh can possibly go very far into the details of the general reticulation, but he may be expected to report generally as to the best modern system of underground drains, house-trap, ventilation, &c., and might probably give a rough estimate of cost at per mile of street."

I only want to show the work which the department did, under the direction of Mr. Black, before Mr. Mansergh came to the colony, and also while he was here. The officers of the department set to work as quickly as possible to supply all kinds of information that Mr. Mansergh required to enable him to prepare his scheme, and when he left the colony he had all the information he desired, with the exception of a few detailed plans.

Mr. T. SMITH.—He had to wait for a good deal of the information.

Mr. GILLIES.—He had nearly the whole of the information with regard to the contour survey. It was never anticipated he would have wanted so much in detail as he did require when he came here, and I venture to say that Mr. Black's views on that subject are worthy of consideration.

Mr. MUNRO.—Mr. Mansergh does not blame anybody.

Mr. GILLIES.—I know; but when it is said that this work was not done, and not attempted to be done, the statement is a mistake, because it is not warranted by the facts of the case. I do not think it is desirable or even necessary that I should extend my observations any further, because the House is in touch with this subject all through, and I believe that honorable members will join heartily in doing whatever is possible to be done for the purpose of having this Metropolitan Board of Works constituted in such a way as will enable it to perform its functions for the best interests

of the metropolitan district, and, I may add, for the best interests of the colony. Whether the board should be larger or smaller than is proposed by the Government may be well considered in committee, but I feel confident that the proposals made in this Bill are of such a character as to entitle them to the special consideration of honorable members. The provisions of the measure have been very carefully considered in all their details, and the greatest praise is due to the Attorney-General for the amount of care that, during the last twelve or eighteen months, he has given to this Bill. I believe that when it is passed it will prove a most valuable measure, and that the House and the country may well be congratulated upon its enactment.

Mr. MUNRO.—Mr. Speaker, on a question of this sort the House is put to a very great inconvenience by having a large number of figures submitted to it without any previous information concerning them. Honorable members could not follow the Premier's statement in the same way as they have been able to follow his statements on other matters concerning which information was circulated among honorable members beforehand. If the figures which the Premier has just given to the House had been previously furnished to honorable members, they would have been able to follow the Premier more intelligently. But what I wish to say at this juncture is that it does appear to me that there are certain restrictions in this Bill which, when they come to be thrashed out, will be shown to be not so advantageous to the country as the Premier considers them to be. For instance, the honorable gentleman says that, in addition to their liabilities under the *Yan Yean*, the borrowing powers of the Metropolitan Board of Works are to be limited to £3,000,000. I certainly do not approve of that limitation, because I believe that the amount will be insufficient for their requirements. With regard to Mr. Mansergh, I may say that I had the pleasure of that gentleman's company as a fellow-passenger on my trip to England. We had a good deal of conversation, of course, and I may say he informed me that he had the very highest opinion of the officers connected with the Public Works department, and especially of the late Inspector-General, Mr. Steel, who had given him an immense amount of assistance and information, and whose death he very much regretted; but he also stated that the department had no idea of the area over which he had to work, and that consequently the contour survey

was not more than half ready when he came here, and when I left in March there was about one-third of the area of the survey which he had not then received. I believe there is some misunderstanding somewhere, but that was Mr. Mansergh's statement, and I am quite sure he is a gentleman who would not make a statement of that sort if it were not absolutely true. Mr. Mansergh holds the first position among hydraulic engineers in the old country, and no one doubts his great ability. I am not quite clear that I have any authority to make the statement as from Mr. Mansergh, but I gathered from him in ordinary conversation what I have stated to the House, and it certainly appears to me that the limitation of the borrowing powers of the Metropolitan Board of Works to £3,000,000 does not meet the requirements of the case.

Mr. TURNER.—It should certainly be not less than £5,000,000.

Mr. MUNRO.—I feel quite satisfied that £3,000,000 will not carry out the works effectively. Before I left London Mr. Mansergh was good enough to show me the plans of his sewerage scheme as far as he had gone, and the amount of labour he has expended in getting really full and reliable information for this country is something enormous. At the time I visited his office he had 30 persons employed in this work, and he is not only going to send us a plan of one scheme, but seven sets of plans and seven different forms of information as to how the work can be carried out, so that a selection may be made.

Mr. ZOx.—I am very sorry to hear that; we shall all be muddled.

Mr. MUNRO.—Perhaps I should not say that there are seven different schemes, because there are not; there is only one scheme, but it is arranged in seven different ways. In one case Mr. Mansergh has arranged that the pumping station shall be at the lowest level, and that the sewage shall be raised above the level of the highest part, so that it may go by gravitation to its destination; according to another plan which Mr. Mansergh has devised the sewage will not be pumped to such a height in the first instance, and consequently the whole quantity of water will not be carried to its destination all the way by gravitation. Thinking the matter out for myself, I am afraid that if you carry out these plans in all their details the scheme will not be absolutely suitable for our case. Of course I may be wrong, for I had not very much time to look into the matter when at home,

being very busy indeed otherwise, but I think the idea of Mr. Mansergh's plan is that it is only intended to convey the sewage to the east or the west of Port Phillip Bay, and deposit it on the land, if sewage farms are to be established, or pour it into the Bay if we don't establish sewage farms. Now, if that be the case, I am confident that the scheme will not be suitable for our requirements. I believe you will find that the only adequate plan will be to construct large channels by which the whole of the sewage of Melbourne and suburbs will be carried right out to the ocean, either to the east or to the west of the Heads. That, it seems to me, will be the only perfect system. If you pour all the sewage of the metropolis into the Bay, Melbourne and its suburbs won't be fit to live in when the metropolis gets the large population which the Premier spoke of. That is my view of the matter. In dealing with the financial part of the subject, the Government appear to me to be wanting to get their money twice over. The Premier has informed the House that from year to year they are getting a large surplus of from £60,000 to £70,000 from the Yan Yean waterworks, and that that surplus, which is provided contributed by the ratepayers of Melbourne and suburbs, is going into the ordinary revenue of the colony, and yet the Government are asking the Metropolitan Board of Works to undertake to pay £800,000 which has already been paid off out of the profits of the Yan Yean works.

Mr. BEST.—The Premier refuses to take into account the past profits which the Yan Yean has poured into the coffers of the Treasury.

Mr. MUNRO.—Yes; although the Government have been receiving handsome profits for years past, it is not proposed to give the Metropolitan Board of Works any consideration in respect of those profits, but all the liabilities that have been incurred in connexion with the Yan Yean are to be charged against the metropolitan board.

Mr. BURROWES.—And the metropolitan board will be glad to get the Yan Yean waterworks on those terms.

Mr. MUNRO.—I don't say the Metropolitan Board of Works will not be glad to get the Melbourne water supply even on those terms, but I do say that this House ought to be careful in dealing with the measure, and that we should not put into the Bill such a restriction as to the amount borrowed as will prevent the board from carrying out a perfect scheme and adopting the system we may all approve of.

The House then went into committee.

Mr. GILLIES moved—

“That it is expedient that an appropriation be made of rates, rents, penalties, and imposts for the purposes of a Bill to provide for the better local management of the metropolis, and for the creation of a Melbourne Metropolitan Board of Works.”

The resolution was agreed to, and was reported to the House and adopted.

Authority being given to Mr. Gillies and Mr. Wrixon to introduce a Bill to carry out the resolution,

Mr. GILLIES brought up a Bill “to provide for the better local management of the metropolis, and for the creation of a Melbourne and Metropolitan Board of Works,” and moved that it be read a first time.

The motion was agreed to, and the Bill was read a first time.

MEDICAL PRACTITIONERS BILL.

The House went into committee to consider the Governor's message on the subject of this Bill, presented June 11.

Mr. WRIXON moved—

“That it is expedient that an appropriation be made out of the consolidated revenue for the purposes of a Bill relating to medical practitioners.”

The resolution was agreed to, and was reported to the House and adopted.

Authority being given to Mr. Wrixon and Mr. Deakin to introduce a Bill to carry out the resolution,

Mr. WRIXON brought up a Bill “relating to medical practitioners,” and moved that it be read a first time.

Mr. L. L. SMITH, by leave of the House, asked the Attorney-General whether the Bill would give facilities to persons holding medical diplomas under which they could not practice in their own countries to be registered as medical practitioners in this colony? The Medical Board was continually being pestered by a large number of persons who sought to be registered as medical practitioners on the strength of diplomas obtained from pseudo medical colleges in America, and it was desirable that the whole of the medical faculty in Victoria should know whether any facilities for the registration of those persons were contained in this Bill.

Mr. WRIXON said the very important matter to which the honorable member had alluded was dealt with in the Bill.

The motion was agreed to, and the Bill was then read a first time.

TRADE MARKS ACT AMENDMENT BILL.

Mr. WRIXON moved the second reading of this Bill. He said—Mr. Speaker, honorable members will be aware that last session Parliament passed a Bill dealing with the subject of merchandise marks, and the whole law on this subject may be said to divide itself into two different branches. One is that portion of the law which deals with offences against trade marks and provides penalties for such offences, and the other is that portion of the law which defines what is a trade mark, and provides the necessary machinery for registering trade marks. The first portion was dealt with last session, when we passed a Bill dealing with offences against trade marks, defining offences and apportioning the penalties for those offences. That Bill was agreed to by a conference of the colonial delegates which was held in London in 1887, and it is uniform with the Imperial law. The design in adopting a law uniform with that of England is not merely to manifest goodwill to the mother country, but in order that we, in common with all the English dependencies and England herself, may have the same law for dealing with offences against merchandise marks. To complete our law we require to take up the second branch—the law defining what a trade mark is, how it may be registered, and generally to provide proper machinery for carrying out the provisions of the measure. That is the object of the measure now before the House. This Bill is substantially based on the English law, differing from it in no material or important respect; and that I take to be a wise and just course for us to adopt, not only because the parent country is undoubtedly the first mercantile nation in the world, but also because we shall thereby gain the value of her experience and have the advantage of English decisions on the meaning of that law, so that when any question arises with regard to trade marks—and often complicated questions do arise—we shall be able at once to refer to the decisions of the highest courts at home, which will save us from needless litigation. Therefore we are substantially following the English law in this Bill, and I hope that when I have explained its provisions honorable members, if they see no objection to it, and no reason for postponing its consideration, will allow it to be passed this evening, because it is very important that we should have this measure included in our Consolidation Acts.

Mr. MUNRO.—If the honorable member for Melbourne East (Mr. Zox) is satisfied, I am.

Mr. WRIXON.—I am in the hands of the House with regard to the matter. The principle of the English law upon the question of trade marks is exceedingly simple. It is this—that a man may not sell as the goods of another what are really not that other person's goods. It does not matter whether the goods are as valuable and useful as the goods they are represented to be; they must not be sold as the manufacture of "C.D." if they are not his manufacture. Trade marks have become one of the most important features of commercial industry, and they are identified with manufactures in every possible variety. I believe they had their origin in the ancient practice of men having over the doors of their shops some particular sign, which they used as showing the nature of the goods in which they dealt. These signs were afterwards transferred to the goods themselves, and enabled them to be identified, no matter to what part of the world they were sent. The system has been developed, and now when a man makes a good article of trade of the excellence of which he is satisfied, and which he desires to identify as his own handiwork, he attaches a trade mark to it. To learn what these trade marks are we have only to look at the hoardings in our streets, or at the placards in our railway stations. Every possible device is used. There are different figures, different expressions, and different words, all showing the infinite variety of these trade marks. It is recognised that some plan must be adopted for the registration of trade marks. The State undertakes this duty, and before it registers any trade mark it is entitled to stipulate that the trade mark is a new one, that it is distinctive and does not embrace general terms or combinations which any one might use in regard to his goods, and that it is applied to some particular class or classes of goods. These are the three points that are insisted upon by the English law as conditional to registration. A trade mark is not like a patent, which dies out after a certain time. It may be renewed time after time for periods of fourteen years, so that if a man manufactures a valuable article, and assigns to it a trade mark, he and his children after him can preserve that trade mark, which is a very important privilege. The machinery at present provided in this colony for the registration of trade marks has proved to be altogether inadequate. The registration of trade marks

is now left in the hands of the Registrar-General, and he is empowered to appoint a deputy. The result is that one of the deputies of the Registrar-General administers the law of trade marks. It is only right that I should say that the gentleman who does so administer this branch of the law has discharged his duties in an excellent and efficient manner. I wish publicly to acknowledge that. At the same time, there is some awkwardness in having a gentleman who is a layman dealing with a branch of the law in connexion with which very difficult questions often arise. The system is unsuitable to our requirements, and we now propose to adopt the system in existence in the United States and England. In the first place we propose that there shall be a Commissioner of Trade Marks, but this will not involve the creation of any new office, nor of any new salary, because it is intended to do here as is done in England—that is, to combine the commissionership of patents with the commissionership of trade marks. The highly-competent gentleman who now fills the office of Commissioner of Patents, and who brings to that position great qualifications, will also discharge the duties of commissioner of trade marks. It is only right that I should say that the same gentleman, in addition to being Commissioner of Patents, is Master-in-Equity, and deals with all matters relating to the estates of deceased persons, and of lunacy. His time is pretty well occupied, but he is a gentleman of great energy, and he is quite capable of undertaking the additional duties that will be thrown upon him by this Bill. One of the most important clauses in the Bill is that defining what may be registered as a trade mark, which is a fertile source of difficulty in the old country and in America, persons often desiring to register inappropriate symbols or signs. If honorable members will turn to clause 8, they will see there a clear and distinct enumeration of what may be registered as a trade mark. These are—

"A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or a written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or a distinctive device, mark, brand, heading, label, or ticket; or an invented word or invented words; or a word or words having no reference to the character or quality of the goods, and not being a geographical name."

No man is entitled to register as a trade mark a geographical name, which it is the right of every body to use—such as the word

"Canada" in regard to furs. That has been repeatedly decided in the old country, and here we are only proposing to introduce what is the English law on the subject. By clause 12 it is provided that the application for registration shall be advertised as soon as possible after it has been made. Then by clause 13 it is provided that any person may oppose the registration of a trade mark; and it will rest with the commissioner to decide whether the trade mark is such as should be registered. Here will come in one advantage of having followed the English law, because there are admirable text-books and decisions on almost every question that can arise, and these will be of the greatest assistance to the commissioner. In cases in which the parties are dissatisfied there will be a right of appeal to the Law officer, and from the Law officer to the Supreme Court, so that there is no fear of any wrong being done to any person. Honorable members will see from clause 20 that registration once effected gives a very important privilege indeed. It is there provided that the registration of a person as proprietor of a trade mark shall be *prima facie* evidence of his right to the exclusive use of the trade mark for five years, and after the expiration of that time it shall be conclusive evidence of that right. Clause 21 sets out that no proceedings can be taken in reference to a trade mark unless it has been registered, so that if a person adopts a trade mark he will not be able to vindicate his right to it unless he has in this way obtained the protection of the law. That provision is necessary in order to preserve the integrity of the trade mark system. Honorable members will observe that by clause 24 it is required that certain fees shall be paid for continuing registration, and under other clauses of the Bill moderate fees will be payable. These fees will be fixed, as they are in the case of patents, at the lowest possible figure at which they will enable the measure to be worked successfully and to pay its own expenses. While honorable members, no doubt, will desire that the mercantile community should not be subjected to the payment of any oppressive fees, they will admit that it is only reasonable that those who use trade marks should bear the necessary expense of maintaining the office in which they are registered. It is with that view that fees will be exacted. There is also power given for the making of rules to insure the effectual working of the measure. I have now explained briefly the

Mr. Wrixon. .

purport of the Bill, and I hope that the House will allow it to be read a second time to-night. I have taken the trouble to consult the Chamber of Commerce and the Chamber of Manufactures on this subject, and I have the satisfaction of being able to assure honorable members that both of those important representative bodies cordially approve of the Bill, and are anxious that it should be speedily passed. I trust that the House will be able to dispose of it rapidly, so that it may be embodied in the Consolidating Bill. We shall then have in Victoria a complete and satisfactory system of dealing with patents, trade marks, and copyrights, and the law on these subjects will be brought into accord with that of England and of the greater part of the mercantile world. There is only one other qualification we shall have to fulfil in regard to patents and trade marks, and that is, by means of federation, to provide for unity of action throughout the whole of Australasia with regard to these important subjects, so that a man registering a patent or a trade mark in Victoria should not, as now, be put to the trouble and expense of going through the same process in every other colony in which he may wish to operate, but should be able to do so once for all. We shall be leading up to that in passing this Bill, which will bring our laws into unison with those of England and of the leading Australian colonies.

Mr. ZOx.—Sir, I trust that the Attorney-General will consent to the adjournment of the debate, in order that an opportunity may be afforded for the public to give an expression of opinion upon this Bill. When the consolidating Bills which were prepared under the supervision of Chief Justice Higinbotham were brought forward the House felt perfect confidence in accepting them, because honorable members knew that it was very improbable that any mistakes could have occurred. Fresh matter is introduced in this Bill, and the Attorney-General knows that the subject dealt with is one of great importance. The exclusive right to a trade mark might, under the Bill, be acquired, not for a limited period, but practically for all time. The Attorney-General has stated that the Chamber of Commerce and the Chamber of Manufactures approve of the Bill. While I would attach great weight to the opinions expressed by the executives of those institutions, I think that when legislation of this kind is proposed the general public should have an opportunity of considering it. A similar

Bill was introduced last session, and the opinion expressed upon it in commercial circles led to the modification of some of its provisions. We have all seen the bad results of hasty legislation. The Attorney-General has advanced the argument that the Bill will bring our law into accord with that of the United Kingdom, but how often has it been said in this House that, as regards legislation on many subjects, we are in advance of the older countries? The conditions in relation to the registration of trade marks may be very different here and in England.

Mr. PATTERSON.—An opportunity can be afforded to the public to consider the Bill when it is in committee.

Mr. ZOx.—I shall not object to that course being adopted, especially as the Attorney-General has stated that the Chamber of Commerce and the Chamber of Manufactures approve of the Bill.

The motion was agreed to.

The Bill was then read a second time, and committed.

On clause 1, giving the short title and commencement,

Mr. WRIXON said that if it was the desire of the committee not to go on with the Bill, he would not press it. He hoped, however, that the leader of the Opposition would not offer any objection to the Bill being proceeded with. (Mr. McIntyre—"It is one of your own supporters who objects.") Yes, but he thought the committee might go on with the Bill. If there was any doubt about any of the clauses they could be postponed.

The CHAIRMAN put the question that progress be reported.

Mr. MUNRO said that no honorable member had moved that progress be reported.

The CHAIRMAN.—When I took the chair there was an understanding that progress should be reported, and I followed the ordinary course in putting the question. There can be no discussion upon it. If, however, honorable members desire it, I will withdraw the question.

Mr. MUNRO stated that there was no precedent for the Chairman of Committees taking his instructions from any supposed understanding that a certain course was to be adopted. The Chairman had no right to put the question that progress be reported unless a motion was proposed to that effect, and honorable members should not be prevented from speaking on any

subject that might be raised by such a proceeding. If, however, an understanding was come to between the Minister of Customs and the honorable member for Melbourne East (Mr. ZoX), it should be carried out. He was anxious that business should go on, but he never was anxious that it should go on without due consideration. If the honorable member for Melbourne East desired that the further consideration of the Bill should be postponed, he thought that course should be adopted.

Mr. PATTERSON moved that progress be reported.

The motion was agreed to, and progress was then reported.

CUSTOMS ACT AMENDMENT BILL.

Mr. PATTERSON moved the second reading of this Bill. He stated that there was a section in the Customs Duties Act of last session which it was supposed deprived importers of their right of appeal against the decisions of the Minister of Customs. The object of this Bill was simply to restore the right of appeal, and to give effect to the agreement which was come to last session at the conference of the two Houses of Parliament.

The motion was agreed to.

The Bill was then read a second time and committed.

On clause 2, providing that nothing contained in section 5 of the Duties of Customs Act 1889, or in section 5 of the Customs and Excise Duty Act 1890, or in any order of the Minister of Customs should affect the right of appeal of importers against the payment of any duty,

Mr. BENT asked the Minister of Customs to explain the meaning of the clause? He understood that the proposal it contained was opposed by the Minister of Customs last session.

Mr. PATTERSON said that the object of the clause was to preserve to importers the right of appeal they had hitherto enjoyed. (Mr. ZoX—"And it is thoroughly satisfactory to all parties.") It was never the intention of the Government to deprive the importers of that right.

Mr. RICHARDSON stated that he would like to know from the Minister of Customs if he was sure he was not introducing a new principle in the clause. It had always been deemed to be necessary that the Minister should have it in his power to decide what the meaning of the law was on certain points; and he was not aware that

there had been any maladministration in connexion with the Customs department.

Mr. PATTERSON said he had never been of opinion that section 5 of the Customs Duties Act deprived importers of the right of appeal, but that was the view taken in another place, and as the result of the conference that was held it was agreed that the Government should introduce a Bill of this nature. It would remove any ambiguity that might exist concerning the right of appeal.

Mr. RICHARDSON remarked that if there was any ambiguity in the law it should be removed, but he did not think the committee would accept any Bill which reflected upon or interfered with the privileges of the Minister of Customs.

Mr. McINTYRE observed that in the opinion of the importers the provision contained in the clause was necessary, and therefore the committee should pass it.

Mr. ZOX stated that the commercial community had had an opportunity of considering the clause, and they were perfectly satisfied with it.

The Bill, having been gone through, was reported to the House without amendment.

On the motion of Mr. PATTERSON, the Bill was then read a third time.

MARRIAGE ACT AMENDMENT BILL.

Mr. WRIXON moved the second reading of this Bill. He said it was a very short and simple measure, so he need not trouble the House with many remarks in explanation of it. Honorable members were doubtless aware of the main principle of the Marriage Act, which was to authorize certain persons, including recognised ministers of religion, to celebrate marriage. By an oversight, however, no provision was made in it to prohibit from celebrating marriage any minister of religion who had been convicted of any felony or misdemeanour, or who had grossly misconducted himself. This omission had always been regarded as serious, for it was obviously wrong that the State should be unable to prevent a minister of religion, who had perhaps just come out of gaol, from continuing to celebrate marriage. (Mr. Bent—"Where is the retrospective provision?") There was none in the Bill. What was now proposed was simply to empower the Governor in Council to prohibit every minister of religion who had offended in the manner he had described from celebrating any marriage in future so far as Victoria was concerned.

He (Mr. Wrixon) felt sure that honorable members all round would agree with the power in question being placed in the hands of the Governor in Council, who, as the Executive of the day, stood responsible to Parliament, and could always be called to account on the floor of this chamber. Therefore honorable members might be perfectly satisfied that justice would be done in every case. On the other hand, by passing the Bill serious scandals would possibly be averted.

Mr. MUNRO remarked that he was somewhat surprised to hear the Attorney-General say that there was no retrospective provision in the Bill, because it had been generally understood that the measure was introduced mainly for the purpose of dealing with a certain person concerned in a particular marriage case recently before the courts. Clause 2 of the Bill stated—

"Notwithstanding anything contained in the principal Act, if any minister of religion is convicted of any felony or misdemeanour or any breach of the principal Act or in the opinion of the Governor in Council is guilty of any misconduct in the celebration of any marriage it shall be lawful for the Governor in Council to prohibit such minister from celebrating marriages in Victoria."

What did this mean? Was this clause only to apply in the future? Of course many considerations arose with respect to the particular case he (Mr. Munro) had alluded to. For example, notorious as the affair was, it was the first of its sort that had come to light so far, and the offender had already been severely and no doubt properly punished. Would it then be true justice to inflict on him an additional punishment which was not contemplated by the Judge before whom he was tried, and who sentenced him? Every one would agree that a Bill like the present should be placed on the statute-book, but its provisions should not go too far.

Mr. McINTYRE asked the Attorney-General to define what was meant by the words "any minister of religion" which occurred in clause 2. Certainly the Bill was an important measure, for it opened up a very large question, which the House should have an opportunity of dealing with on its merits. Would it not be well to take this power of celebrating marriages away from ministers of religion altogether? Since marriage was simply enabling two persons to enter into a legal contract, why should ministers of religion be entrusted with the function of performing it? It seemed to him that they might be done without.

altogether in the matter—that it was absolutely unfair to bring them into the business. At all events honorable members ought to know what “any minister of religion” meant. How many religions were there in the country? He had heard of a person named Symes; was he a recognised “minister of religion?” Was he allowed to perform marriages? (An Honorable Member—“He is of no religion at all.”) He (Mr. McIntyre) understood that Mr. Symes believed in the Great Architect of the Universe, and was not that of itself a religion? It ought to be known also whether the Bill would or would not touch a certain person who had been recently punished for performing a marriage improperly. Not that he (Mr. McIntyre) believed that the punishment inflicted was too great. On the contrary, he regarded it as inadequate. Had the penalty been greater, the better would it have been for married life.

Mr. W. T. CARTER thought that the term “minister of religion,” as referring to certain officials who were authorized to perform marriage, stood already amply defined in the Marriage Act, which treated them, with reference to that solemn ceremony, as simply agents of the State. In that way a very proper concession was made to the feelings of a very large number of persons—so large as to comprise, he was proud to say, the majority of the community—who preferred being married religiously to being married, so to say, irreligiously. Of course, they could be married in a civil way by a registrar, but that was not sufficient for them. It did not satisfy their consciences. As to what legally constituted a “minister of religion,” he (Mr. Carter) believed that the law simply required the individual in question to be a minister of religion ordinarily officiating in connexion with a congregation who had been registered according to law in the Registrar-General’s office. To what particular religious denomination he might or might not belong was a matter of no consequence, so long as its existence was officially recognised. As to the Bill being retrospective he (Mr. Carter) was glad to hear the disavowal of the Attorney-General, still he was sorry to find that the measure, which he fully upheld, did not contain a clause providing that a person who was formerly a minister of religion but who had ceased to be one—say a person who had chosen to abandon the ministerial function and to enter into some sort of business—should also cease to remain on the list of persons authorized to perform marriage.

At present such a person, although he might have in every shape and way left the profession of the ministry, still retained the quasi ministerial function so far as to remain entitled to celebrate marriage, which was an anomaly which should be put a stop to. This should be done if for no other reason than that there were to be found persons who were once ministers but who were now in a business position, and who, for purposes of their own, sounded themselves as the “Reverend” this or that. On the other hand there arose this curious question—Why should not an honorable member of this Chamber who was formerly a minister of religion be referred to as the “honorable and reverend” member, just as a member who was a lawyer was styled “honorable and learned,” or a member attached to the military profession was termed “honorable and gallant?” He (Mr. Carter) thought the Legislature should lay it down that when a minister of religion ceased to exercise the ministerial function he should also cease to be an officer of the State entitled to celebrate marriage. At the same time he hoped that duly recognised ministers of religion would never be prevented from ministering to their people in the matter of marriage as well as in other respects.

Dr. PEARSON stated that, inasmuch as the Attorney-General was prevented by the standing orders from speaking again during the debate, he (Dr. Pearson) would inform honorable members of what legally constituted a minister of religion who was authorized to perform marriage. Section 4 of the Marriage Act was as follows:—

“The following persons and none other may celebrate marriages:—

“I. A minister of religion ordinarily officiating as such whose name, designation, and usual place of residence, together with the church chapel or other place of worship in which he officiates is at the time of the celebration of the marriage duly registered according to law in the office of the Registrar-General:

“II. A minister of religion being the recognised head of a religious denomination:

“III. A minister of religion holding a registered certificate that he is a duly authorized minister, priest, or deacon from the head of the religious denomination to which he belongs, or if there be no such recognised head from two or more officiating ministers of places of worship duly registered according to law:

“IV. The Registrar-General or other officer appointed for that purpose as hereinafter mentioned.”

Surely there should be no difficulty in accepting the Bill, which simply provided that if any of the various classes of persons indicated in the first three subdivisions of

this section misconducted himself, or was guilty of a crime, he should be rendered no longer capable of celebrating marriage. In reply to one of the remarks of the honorable member for Williamstown he (Dr. Pearson) might mention, with respect to his own church—the Church of England—that priest's orders were regarded by the ecclesiastical law as indissoluble. He would also state, in reply to the honorable member for Maldon, that there was a very strong feeling in the churches of the colony in favour of marriage being celebrated by a minister of religion.

Mr. GRAVES said that if the honorable "and reverend" member for Williamstown would propose an amendment embodying his suggestion with reference to the Bill it should have his (Mr. Graves') support. As for the Bill as a whole, he would gladly vote for it, because he regarded it as fully in accord with the provisions comprised in section 4 of the Marriage Act of 1864, the object of which was undoubtedly to render the law of Victoria so far in unison with English law and usage. If every registrar who misconducted himself could be prevented from celebrating marriage in future, why should not every clergyman, with respect to his function as an officer of the State, be placed in a similar position?

Mr. TURNER stated that he was quite in accord with the objects of the Bill, but he wished to be sure that carrying it into law would injure no innocent party. For instance, what would be the effect of a marriage celebrated by a minister of religion who had been prohibited under the provisions of clause 2, the parties so married honestly believing that the person marrying them was duly authorized so to do? This should be regarded as a very serious question, for many matters of deep interest—such as the rights of property and the rights of children—were involved. Section 17 of the Marriage Act contained the following provision:—

"No marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a minister or ordinarily officiating minister of religion, Registrar-General, or other officer appointed as aforesaid, if either of the parties to the marriage shall at the time *bond fide* have believed that he was such minister, ordinarily officiating minister, Registrar-General, or other such officer."

And it ought to be made clear that marriages of the kind he had referred to would come within these terms.

Mr. ARMYTAGE thought that honorable members all round fully appreciated

the importance of the Bill. He would therefore suggest that, inasmuch as copies of the measure had been circulated only that morning, the debate should be adjourned. He would also ask the Attorney-General whether the provisions of clause 2, which related to misconduct on the part of a clergyman, might not be held to apply to a clergyman who refused on conscientious grounds to celebrate the marriage of any divorced party or parties. (Mr. W. T. Carter—"A minister cannot be compelled to perform any marriage.") But his refusal to perform a marriage might nevertheless be regarded by the Governor in Council as "misconduct."

Mr. G. D. CARTER expressed the opinion that the fact that the "principal Act" referred to in the Bill was not the Marriage Act of 1864, but the consolidated measure relating to the marriage law which passed the Assembly only the other day, and had not yet become law, was rather confusing. For instance, the section 19 of the principal Act referred to in clause 3 was not section 19 of the Marriage Act now on the statute-book. Again, why should that clause refer to Quakers and not to Jews? With the suggestion of the honorable member for Williamstown he was quite in accord, for it was most undesirable that a man who had given up being a clergyman should be able to practice as a sham clergyman. Again, he objected to the Governor in Council being, under the Bill, the authority to decide whether a clergyman had misconducted himself, because the words "Governor in Council" simply meant the Ministry of the day, and why should the Ministry of the day be constituted both judge and jury with respect to any case? Why should they possess functions superior to those of the Supreme Court? What would be the consequence? That an offender under clause 2 would have only to be an ardent Ministerial supporter in order to escape all punishment. The words relating to the Governor in Council ought to be omitted.

Mr. STAUGHTON said he quite agreed with the last remark of the honorable member for Melbourne. In fact, when a clergyman had been convicted in court of any felony, misdemeanour, or misconduct, that of itself ought to be sufficient to cause him to be struck off the roll of persons authorized to celebrate marriage; and a similar rule should exist with respect to registrars. (Mr. W. T. Carter—"Every registrar is necessarily under the control of

his official superiors.") Still it would be well to insert in the Bill some provision dealing with them as well as with clergymen.

The motion was agreed to.

The Bill was then read a second time, and committed *pro forma*.

EDUCATION ENDOWMENT COMMISSIONERS BILL.

Dr. PEARSON moved the second reading of this Bill. He said—Mr. Speaker, the leader of the Opposition asked me the other evening whether this Bill was or was not framed on particular lines, and I am sorry to think that the honorable member took offence at the answer he received. Certainly it was not intended to offend him. All I sought to convey was that it would be scarcely in order, or, at all events, in accordance with the practice of the House, to discuss a question of that character at that particular stage. I will begin now by answering the honorable member's question, and stating that this Bill is exactly the same as the Bill agreed to by this House last session, with the exception that the particular clause on which the two Houses were divided in opinion has been omitted. The honorable member has also said that the Bill does not provide sufficiently for the trustees being responsible to Parliament; but perhaps he will recollect that when the measure was before us last year he moved an amendment on this point, and the House decided against his particular view. The House, however, made some alterations in the 5th clause which we have retained, although the effect will be to make the commissioners a more shifting body than it was originally designed to be. The House can hardly expect that I should now repeat the arguments in favour of the Bill which have been put forward by different members of the Government on so many previous occasions. It was first introduced three years ago by the then Minister of Lands (Mr. Dow), and no opposition was offered to it, but the session was so far advanced that it could not be completely dealt with. The following year it was again brought in, the Premier having charge of the measure, and again, although its merits and some of its details were discussed by over twenty members, no opposition was offered to it. It had, however, to be abandoned, because it had, like its predecessor, been brought in so late in the session. Last year it was actually carried through both Houses; but owing to the circumstance that the two branches of the

Legislature found themselves at variance on one point, which it was too late in the session to deal with as it deserved, it had to be given up, otherwise it would undoubtedly have been passed into law. On the present occasion the Government are taking time by the forelock, and as we have been urged with regard to the measure both by different unions of teachers and by numerous boards of advice, I hope the House will make no difficulty about passing it. In his speech upon the Bill of last year, the leader of the Opposition asked a question which I was not then able to reply to, but I would like this time to answer it a little at length. He admitted that it would be a good thing to set apart land for educational purposes, provided the means so obtained could be ear-marked for those purposes, but he wished to know what precedent for the arrangement could be shown. Well, I will say in reply that several other departments of the State provide for their expenditure in a similar way. The Lands department obtains the means for much of its expenditure from the sale or leasing of various kinds of lands. The Postal department is gradually coming to pay its own expenses out of the revenue it receives, so that there is no need to provide any endowment for it. The Customs and Railway departments more than pay their expenses out of the revenue they earn. In fact the Education department stands almost alone in this respect, that while it renders service of vast importance to the community, it brings in no revenue, the State having adopted the sound principle of not demanding payment for the education it gives. At the same time we find the expenses of the department increasing very largely, and that there is this danger, that unless we adopt some means of providing it with special revenue, the Government may possibly be tempted, at times when it is necessary to economize, to do it at the expense of this particular service. On the other hand, while the department is adopting all sorts of economy—proper economy—and is actually saving in some directions, it is unavoidably becoming almost daily more expensive in other directions. One great source of expense, which was hardly anticipated at first, is with respect to school buildings. As far as I can see, from the speeches of the wise and far-seeing men who framed our education system, they anticipated that although a heavy expenditure on school buildings would have to be incurred in the first instance, it would in

course of time, in spite of increase of population, become comparatively only slight. It is true that the increase of population year by year is exceedingly small. According to a return from Mr. Hayter, the actual yearly increase in children of school age is not more than 900, and the expense of providing for 900 children at £10 per head would only amount to £9,000 a year. But what has been, to a certain extent, overlooked is the enormous migration of population which is constantly going on, and taking this into account, I estimate that we have to provide from year to year for an increase of from 7,000 to 9,000 children. I may say that in making that calculation I am basing my estimate upon materials supplied by Mr. Hayter. He tells me that in Melbourne and suburbs the yearly increase is 3,500, and if we merely double that number for the whole country we get 7,000, but as the population of the country is to that of Melbourne and suburbs as 3 to 2, it is only fair to allow rather more. In this way we find it necessary to expend from £70,000 to £80,000 a year upon school buildings. Then again, buildings that were in good repair in 1872 and 1873 are now very much out of repair, and in many cases the department is obliged to spend a great deal in putting them into serviceable order again. Beyond that, honorable members must bear in mind that when our schools were first built the great need was to provide schools of any kind for the population, and consequently a great many things were not attended to that we look upon as indispensable now. For instance, there is scarcely one of the old schools that has anything like a decent playground attached to it. In the case of seven of our biggest schools in Melbourne and the suburbs, the whole ground is often less than half an acre in area, and in no instance more, so that if you deduct the area required for the building there is very little left for playgrounds for the boys and the girls, and for a drilling ground for cadets. I make it a rule never to give a school less than an acre, and that, of course, means considerable expense when buying land at anything like its present value. At the same time I think the House will agree that the playground is just as important to the right bringing up of boys as the school. If you don't give them a playground they are bound to play in the streets, and if they once get the habit of playing in the streets they are on the high road to become larrikins. Again, honorable members are constantly urging the department to provide

Dr. Pearson.

certain desirable accessories to schools. Country members wish their school grounds to be fenced, and to fence in all the school grounds would cost £40,000. Other members want verandahs and shelter-sheds, which also mean additional expenditure. Again, owing to increased attention to hygiene, we are raising the height of the walls in the new schools, and that also involves increased cost. Then we are providing asphalted walks. Further there has been a great demand in the country for the promotion of technical science, and experts tell us that we must have a room specially adapted for drawing. When you add to all this the cost of desks, maps, and apparatus, and remember that land and building material are becoming dearer, it will be seen that the expenses of the department, quite apart from the teachers, are becoming exceedingly heavy. The country must have expected that the educational service would grow steadily year by year. There are, however, some offsets, and I am anxious to explain one at least of these. The migration of people to the town, no doubt, in so far as it is a migration, leads to a great deal of expense. For instance in the Castlemaine district the school population has diminished from 3,500 to 1,800, or had some years ago. That population has not left the colony, but the greater part of it has come to Melbourne. Of course, in such cases the old schools are almost useless, and we have to build new schools. On the other hand, a town school is incomparably cheaper to build than a corresponding number of country schools. I know there is an opposite impression. Honorable members see a town school, which appears a very magnificent building, with pinnacles and gables, and with fine rooms, 16 feet to 18 feet high, and they think the city is favoured at the expense of the country. Now precisely the opposite is the case. The town school building costs less in proportion, and the teachers cost incomparably less. The cost of a building in town that will hold 1,000 children is from £8,000 to £8,500, and the ground from £2,000 to £3,000—we have only exceeded £3,000 on one occasion. This makes a total of from £10,000 to £11,500. The cost of 50 small schools in the country at £240 each, without counting the land, would be £12,000. That no doubt is a very slight difference, but it is a difference against the country as compared with the town. But when we come to the staff of teachers, the difference is enormous. Taking an actual town school, the staff for 1,000

children costs £2,355 per annum, but the staff of a corresponding number of country schools, assuming 20 of the teachers would be males and 30 females, would be from £7,000 to £8,000 a year, so that there is a saving of £4,000 or £5,000 a year in that particular item. Then for maintenance, while the town school would be allowed £112, the 50 small schools would be allowed £562. Therefore it will be seen that the migration to the town has, to a certain extent, tended to economy in the service of the department; in fact, except for that the Education estimates would appear very large indeed. Again, we have to a certain extent economized by the introduction of unclassified schools. The unclassified schools which provide for the children in remote parts of the country are now officered by male teachers who get £104 per annum, instead of £195, and by female teachers who get £80 instead of £140. We have not, however, economized all that money. We have spent it in giving more schools, so that now, whenever there is an average attendance of eight children, we give a school. In this way I think we have immensely added to the efficiency of the service, and at the same time we are able to do more for the same money. Still, on the whole, I think the House will see, especially when it remembers what large sums we are now spending on technical schools, the new schools we have to provide for, the old schools we have to put in order, and the higher salaries in many cases we have to pay our teachers, that the cost of our education service is increasing, and it is desirable that we should provide some independent source of revenue for it. A Minister getting £100,000 or £200,000 a year from this land ten years hence will be much more able to meet any extraordinary demands than a Minister is in a position to do now, while at the same time the provision for any new service required will not weigh so heavily on the taxpayer. As I have already stated, we have omitted from the present Bill the clause by which Members of Parliament might be made commissioners. Last year when that clause was proposed it was very severely criticised both in this House and in another place, and also in the press. I wish therefore to point out that that clause had been in the Bill from the first. It was in the Bill when the late Minister of Lands introduced it, in 1887, and it attracted no attention then either in the press or in Parliament. It was in the Bill again when the Premier introduced it,

in 1888, and he spoke about it in his speech. On that occasion there were twenty members who spoke, most of them from the Opposition side of the House. The Bill was discussed on the whole favorably, but what I have to notice particularly is that not one of those members, as far as I can find, commented unfavorably upon this proposal. In order to be exact, I may say that two members did notice the proposal. One of them, Mr. Brown, a late member for Mandurang, objected to the proposal, but his objection was that gentlemen who were Members of Parliament at the time of their appointment might afterwards cease to be members. In other words he did not object to the principle of appointing Members of Parliament, what he desired was that the commissioners should always be Members of Parliament. Mr. Vale, one of the then members for Ballarat West, objected in a general way to the fact that the Bill would give the Ministry patronage, but as that argument would apply whether the commissioners were Members of Parliament or not it can hardly be used against this particular proposal. On that occasion neither in the press nor in Parliament was any objection taken to the clause in question. When I was asked, in the third year, to take charge of the Bill, I did not apprehend that there would be any serious objection to it; but on that occasion undoubtedly the press attacked it very strongly, and partly, I think, in consequence of that the proposal excited a good deal of opposition in this House as well. The opposition was not a very persistent or continuous one, but still it was very different indeed from the universal assent there had been to the proposal before. Ultimately, as we know, the Bill was returned to us from another place, and we were told that that House decidedly objected to this particular clause. My own opinion is, as I have told the House before, that the clause was a good one. Moreover, I cannot see for the life of me what principle is involved, inasmuch as Parliament has twice before indorsed this particular principle—once in connexion with the Harbour Trust and once in connexion with the Council of Agricultural Education.

Mr. GRAVES.—It works well in both cases.

Dr. PEARSON.—At any rate there is no particular objection to it, and I do not know why there should be. My impression is that you would be more likely to get good business men who, from taking an interest in public affairs, would devote themselves to this particular kind of work out of this

House than elsewhere. At the same time, if we find, as we have found, that there is a strong opposition to the proposal in another place, if we have to recognise, as I think we must, that that place has a right to express its objection—that it is not, in this instance, encroaching on any of our particular privileges, such as by attempting to amend a Money Bill—if we find also in the country that, on the whole, the balance of opinion is against the proposal, then, I think, we may withdraw without dishonour from it, especially when it is a question of introducing the Bill again. With respect to the Bill itself, I will only say that it has been a long time now before the country, it has been thoroughly thrashed out in this House, and it has been worked into a shape which I think is acceptable to almost all members. The general principle of the Bill has been approved from the outset, and I certainly believe that, guarded as the measure now is—in the shape it is now—it will prove a very great benefit to our educational system. At any rate, it is most desirable that there should be a final decision one way or the other. If we do not intend these lands to be used in this particular way, we certainly ought not to keep them locked up any longer; we ought not to be holding out false expectations about them. It is a positive inconvenience I know, in one or two cases, that they should be locked up in this way. I hope the House will see its way to pass the Bill.

Mr. MUNRO.—Mr. Speaker, I do not think it is a very great compliment to the Minister of Public Instruction that there should be only a bare quorum present at the introduction of this Bill, which certainly caused a good deal of excitement towards the end of last session. The Minister has said a great deal of the clause which he has omitted from the Bill, and would lead honorable members to believe that it has been omitted to some extent on account of objections raised in this Chamber. Now, the reverse is the case. It was the other Chamber which raised the objection to that clause, and it was this Chamber which insisted on retaining it; so that in omitting the clause from the present Bill the Minister has conceded all that the other Chamber contended for, and is giving up all that this House contended for. Personally, however, my chief objection to the Bill was quite a different one, and that objection is still as strong now as it was last session. My objection is that the Government are giving over a large portion of the public estate to

irresponsible commissioners who can do as they like with it, or refuse to do anything at all with it. That is a principle I shall always object to. I do not believe in giving the public estate away to any commissioners, who are under no control, and subject to no penalties if they do not deal with the public estate as they ought to. It is well known that gentlemen placed in such a position, who have no personal interest in doing anything with the public estate, allow it to lie dormant, and do not put it to proper use or derive a proper revenue from it. The Minister spoke of his department as the only department without a revenue, and referred to it expecting a revenue from this source. But the honorable gentleman has adopted the very means to prevent his getting a revenue. If he appoints these commissioners, who are not responsible to Parliament or to the Government, he may never get any revenue from the land. But I do not think he clearly justified the position he takes up, even on this point. As I understand the Bill, it provides that a certain portion of the public territory is to be handed over to a number of commissioners, who are to be empowered to lease it. If the Minister of Public Instruction gets a revenue from that source, that is not a revenue that arises from the Education department in the same way as revenue arises from the Postal department. It is not a revenue arising from the working of the department; it is a revenue outside the department altogether. What I object to is that this land is ear-marked as an endowment for the Education department. It is brought into the public account of the colony, and how you are to follow the money up, and say that it belongs to the Education department, is more than I can understand, because it is not that department's money at all. The commissioners are not commissioners for education, they are only commissioners dealing with this particular part of the public estate, and the result is we are supposed to get a revenue from the Education department which does not come from the department at all. I do not think anything the Minister has said has shown that this Bill is more justifiable now than it was last session. All the talk about the difference between the cost of education in the country and in the town is beside the question. Of course fifty separate schools cost more than one large school, but we cannot expect the population scattered in the country to send 1,000 children into one school. If the conditions in town were similar to those in the

country, and the Minister had to erect fifty schools where there is now one, the cost would be immensely greater in the town. The whole difference arises from the population being denser in the town. But all this has nothing whatever to do with the Bill. The Bill is conceived in a wrong spirit, and is just as bad, in my opinion, as it was last year. I shall consider it my duty to insist on a division on the second reading. I regard it as a wrong principle to give any portion of the public estate to irresponsible commissioners.

Mr. WHEELER.—Sir, I quite agree with the principle of the Bill, namely, that of endowing our education system with land. While we have still some land left at the disposal of the State, I think it is a proper thing to endow our education system, with the view of relieving the burdens of the people, because the system is necessarily becoming more expensive every year. The objection, however, which has been taken by the leader of the Opposition to placing these lands under the control of commissioners is exactly the objection which I raised when the Bill was under consideration before, and I think that objection holds good still. Why should we appoint five commissioners, and virtually create a new department? There is really no necessity for that. If these lands were vested in the Lands department, and managed by that department, without any additional expense at all, it seems to me that that would meet all that is required. The Lands department is not a growing department, in fact it is gradually dying out, and is probably overmanned. Why then should we create virtually a new department, and incur further expense by the appointment of commissioners, who, as has been pointed out, would be irresponsible? I think that would be a great mistake. I am quite with the Government in desiring to endow our school system with lands, but I maintain that Parliament should know exactly what is done with those lands from time to time. If the lands were vested in the Lands department, and the Minister came down to Parliament with a proposition that certain lands should be leased for a certain period, then the House would know exactly what was being done with the lands. But if you vest the lands in commissioners, what will they do? They may cut them up into small blocks and lease them for long periods. That would be a serious mistake, because we don't know but what some of the lands may be wanted for docks or other purposes.

Whether the lands are vested in commissioners or in the Lands department, they should certainly not be leased for long periods, but should be available from time to time to be devoted to the most advantageous purpose. I do not intend to oppose the Bill, but I do hope the Government will take into consideration the suggestion that, instead of creating a new body, these lands should be vested in the Lands department.

Mr. MCINTYRE.—Sir, the honorable member who has just resumed his seat expressed my ideas exactly in regard to this measure. I think it is highly undesirable to create a new body altogether outside this House to deal with such an enormous interest as this Bill is likely to create. We are creating a body to work a very large portion of the public estate, which should never be given away from the purview of this House. There is no doubt that, as the honorable member for Daylesford has said, these lands can be thoroughly administered by the Lands department. Every idea we have in regard to this measure can be carried out by that department. I believe every member of this House thoroughly agrees in the principle of setting aside a large quantity of the land of the colony for the purposes of education, but what we object to is to any body of men outside the control of Parliament being selected to manage such a large portion of the public territory. I think the Government would do well to withdraw this Bill altogether. Then they can bring down a schedule of these lands with plans giving the exact area, and I have no doubt that Parliament will, by an Act, conserve those lands for the particular purpose of education for all time, and the Lands department will administer the lands for the purposes of the Education Act just as the proposed commissioners would do, while it would be responsible to this House. I believe if the Minister of Public Instruction were to take that course, he would meet with the almost unanimous support of the House. I regret that the honorable gentleman spoke as he did with regard to the country and the town schools—the ornamentation of the one class as compared with the other. He must know that thousands and thousands have been spent in the way of ornamentation that was not required at all. It would have been far better to have plain buildings with good verandahs to protect the poor children from the sun in summer and the rain in winter. I think it was the duty of the Minister to have told the House the exact expenditure

which this Bill entails. It will be something enormous. The whole paraphernalia of a body of commissioners must mean a large expenditure immediately and annually, and is this money to be paid out of the property to be handed over to the commissioners? If so, they must hypothecate the land at once, unless they can lease it right off. In order to save a division, the Government would do well to announce that they will withdraw the Bill and reconsider the whole question.

Mr. WHEELER.—The Government may consent to alter it in committee.

Mr. McINTYRE.—There is nothing in the present Bill which could be accepted, except the conservation of the land, and it would be better to bring down a new Bill of a few clauses conserving this land for education purposes alone, and providing for its administration by the Lands department. The Minister of Public Instruction, in his speech, stated that neither “in the press nor in Parliament” was the proposal to appoint Members of Parliament as commissioners objected to when originally brought forward. It was curious to notice, by-the-by, that the Minister put the press first; of course we all know that this Government is run by the press. But if neither the press nor Parliament objected, why was not the principle of allowing Members of Parliament to be appointed commissioners allowed to remain in the Bill? Personally, I think it is undesirable that Members of Parliament should be on these commissions—the Harbour Trust or others—but the Government, from their own point of view, have made the Bill worse than ever by omitting this provision.

Mr. G. D. CARTER.—Mr. Speaker, I fear the honorable member for Maldon is somewhat wanting in benevolence. Surely he must see that one of the objects of the present Government is to provide occupation for the unemployed. We have now three Bills before us—the Metropolitan Board of Works Bill, the Fire Brigades Bill and this Bill—all of which create boards with officers and servants, and salaries have to be provided in each case. A great number of the Acts of Parliament passed of late years have been of a similar character, and we are going on as fast as we can to make the greater part of the population servants of the State. This is rather rough on the portion of the population left outside. It has been said that one of the objects for which this Bill was originally introduced was to provide positions for some members

of the present Ministry who, when they leave office, will probably rank with the unemployed. It is rather unkind of the honorable member for Maldon to press the Government so hard, seeing that they are evidently making provision in advance—making friends with the mammon of unrighteousness so that they may be received into Government billets by-and-by, when they leave the Treasury bench. I quite agree with the view that, while it is right to endow the education system, there is not the slightest occasion to create a new body for the purpose. Surely the Lands department, which has very little to do—it is getting less to do every year—could attend to the management of these particular lands. There is another point to which I wish to call the Minister's attention. We are perpetually boasting of Melbourne as the queen city of the southern hemisphere, which is going to have all the ships of the world coming here, and we are spending hundreds of thousands through the Harbour Trust in improving the port. Yet by this Bill we are giving away Coode's Island, which I should certainly imagine as Melbourne grows will be required for docks or warehouses. If that land is let on 30 years' leases for other purposes great inconvenience will probably arise. I do not know whether the Government have taken the advice of the Harbour Trust on the question whether it would not be advisable to excise this block from the Bill. If you once let the land on 30 years' leases, how are you to get it back? The honorable member for Daylesford has suggested that the leases are too long, and so they are; if the leases were to be short, I could understand it. If we look at the south bank of the Yarra, we see the result of letting Government land on leases. How many of those leaseholds have become freeholds by political pressure, and how many of the others will ever come back to the State? If you let all the land between Melbourne and Hobson's Bay on 30 years' leases, it is very unlikely that you will ever get it back again. To give a man a 30 years' lease of Government land in this country is pretty much the same as giving him a freehold. By the time the 30 years are over the lessees will have sufficient political influence to ensure the renewal of the lease, or at all events to prevent the land being taken away from them and devoted to any public purpose which is not provided for in this Bill. I quite agree that it is not necessary to create a new department with new officers, new servants, and new expenses for the poor unfortunate people of

this country—they are only a handful—who earn anything for the good of the country. We have killed the miners, we are endeavouring to strangle the farmers, and in a short time we shall only have Members of Parliament and persons receiving pay directly or indirectly from the State. Where on earth the money is to come from I don't know.

Mr. McINTYRE.—From England.

Mr. G. D. CARTER.—We have got a good deal from England, but even that perennial stream may some day cease to flow. It is not fair to the ordinary ratepayer who does not receive any direct payment from the State that we should go on creating fresh boards and fresh burdens.

Dr. MALONEY.—I am glad to be able to compliment the Minister of Public Instruction and the Attorney-General on introducing this Bill, which is, I think, the greatest step in the direction of State socialism ever made here. It means that nearly 2,000,000 acres of land are to be simply nationalized. That is going in the right direction. I should certainly like to hear the Minister of Public Instruction say something about the abolition of one absurd system—the payment of fees at the University. Why should the University, which has cost the country a very large sum, be different from the State schools? Why should not a student have the right to go free to the University, as he can to the State school? With all the objections that have been raised in reference to the creation of a new corporation I agree, and if there should not be a division on any other question, I shall insist upon a division on that. The Lands department is sufficiently officered to be able to do all the work that will be entailed by this measure, and in my opinion the officers of that department ought to be compelled to do it.

Mr. BURROWES.—Mr. Speaker, I intend to move the adjournment of this debate. Whether the officers of the Lands department are competent, and have a sufficient staff to carry out the provisions of this measure, I am not going to say, but I think that Parliament has set its face against the appointment of any more commissioners. That is the general feeling among honorable members, and there is no doubt that the expense of a new department would absorb a large amount of the revenue from these lands for some time to come.

The SPEAKER.—Has the honorable member moved the adjournment of the debate?

Mr. BURROWES.—I will conclude with a motion.

Mr. McINTYRE.—You will lose your right to speak on the main question when the debate is resumed if you discuss it now.

The SPEAKER.—The honorable member prefaced his speech by saying that he purposed to move the adjournment of the debate. Under these circumstances the honorable member can only speak at the present time on the question of the adjournment of the debate.

Mr. BURROWES moved the adjournment of the debate.

Mr. MOUNTAIN seconded the motion.

Mr. PATTERSON said he thought it would be well to adjourn the debate in view of the magnitude and importance of the question under consideration. Honorable members were all agreed as to the wisdom of the principle of endowing the educational system of the colony, and he trusted that when they resumed the consideration of the Bill they would be able to arrive at such a decision as would put the educational system of Victoria on a fair and solid basis for all time.

The motion for the adjournment of the debate was agreed to.

The House adjourned at twelve minutes to ten o'clock.

LEGISLATIVE COUNCIL.

Wednesday, June 25, 1890.

Assent to Bill—Maps of Electoral Provinces—Legislative Council Election Law Amendment Bill—Water Conservation Expenditure—Customs Act Amendment Bill—Declarations Commissioners Bill—Official Secrets Bill—Partition Law Amendment Bill—Criminal Law Amendment Bill.

The PRESIDENT took the chair at twenty-four minutes to five o'clock, and read the prayer.

ASSENT TO BILL.

The Hon. H. CUTHBERT presented a message from the Governor intimating that, at the Government offices, that day, His Excellency gave his assent to the Railway Loan Act 1889 Amendment Bill.

MAPS OF ELECTORAL PROVINCES.

The Hon. J. H. ABBOTT asked the Minister of Justice if he would consider the desirability of having maps showing the boundaries of the various provinces of

the colony prepared before the elections to be held in August next? He had applied at the Crown Lands office for a map of the description referred to, but had been unable to obtain it.

The Hon. H. CUTHBERT said he had received from the Crown Lands office the following reply to the question:—

“Maps showing the boundaries of the various provinces are already in existence, having been prepared at the time of the passing of the Legislative Council Act, 1881. Copies can be obtained at the Crown lands office.”

He would inquire into the matter, and if he found that the maps could not be obtained at the Crown Lands office, he would give instructions that they should be prepared. It was only right that honorable members and the public should be provided with maps showing the boundaries of each electoral district.

LEGISLATIVE COUNCIL— ELECTION LAW AMENDMENT BILL.

The Hon. C. SARGEANT moved for leave to bring in a Bill to amend the law relating to electors and the election of members to serve in the Legislative Council.

The Hon. J. BUCHANAN seconded the motion.

Sir F. T. SARGOOD said he did not rise to oppose the Bill, because it dealt with a subject which he brought under the notice of the House at the beginning of last session. He simply desired to point out that it was the invariable rule that Bills affecting the constitution of the Legislative Council should be introduced by the Government. He hoped, therefore, that the Government would take up this Bill.

The Hon. S. FRASER stated that he was strongly of opinion that Bills of the nature of that which Mr. Sargeant desired to introduce should be brought in by the Government.

The Hon. N. FITZGERALD remarked that it would be more in accordance with the practice of the House if the Bill, which he understood proposed to amend the Constitution Act, were brought in by the Government. With every respect to Mr. Sargeant, he thought it would be a dangerous precedent for a private member to introduce such a measure. He trusted that the Government would relieve the honorable member of the task he had undertaken.

The Hon. F. S. DOBSON observed that it appeared to him that honorable members were leaping before they came to the stile.

It was a most unusual thing for the House to refuse leave to any honorable member to bring in a Bill. (Sir F. T. Sargood—“We do not desire to do that.”) At any rate, Mr. Sargeant was perfectly right in the course he had adopted. Honorable members should wait to see the Bill before they criticised it. The practice of the House in the early days was to allow Bills to be introduced without leave.

The PRESIDENT.—The House does not yet know anything about the Bill which Mr. Sargeant has moved for leave to introduce. I think the House should extend to him the privilege which it is usual to grant to any honorable member. At the same time, I think it would be unwise for a private member to prosecute a Bill which is of so much importance as involving an alteration of the constitution of this House. The honorable member might be allowed to bring in the Bill, and he could then communicate with the Government and ascertain their views on the subject. They might be disposed to relieve him of the measure.

The Hon. N. FITZGERALD said he was aware that it would be an act of discourtesy to refuse Mr. Sargeant leave to introduce the Bill. All he desired to do was to point out that it was contrary to precedent for a private member to attempt to amend the Constitution Act.

The Hon. H. CUTHBERT stated that if Mr. Sargeant was really desirous that any amendments should be made in the Constitution Act, he would best secure his object by postponing the motion and communicating with himself on the subject. If the Bill were read a first time the honorable member might defeat his own object.

The Hon. W. A. ZEAL remarked that it was a most unusual proceeding to attempt to refuse to any honorable member the right to introduce a Bill. The Bill might contain valuable principles; if it did not the Government could oppose it.

The motion was agreed to.

The Bill was then brought in.

The Hon. C. SARGEANT said that, in deference to the wishes of the Minister of Justice, he would not move that the Bill be read a first time that night.

WATER CONSERVATION EXPENDITURE.

The Hon. S. FRASER moved—

“That a return made up to the 30th instant be laid on the table of the Council showing all moneys advanced under the Victorian Water Conservation Acts 1881, 1883 and 1884, giving

dates of advances and the interest paid and in arrear."

The Hon. W. A. ZEAL seconded the motion, which was agreed to.

CUSTOMS ACT AMENDMENT BILL.

This Bill was received from the Legislative Assembly, and, on the motion of the Hon. J. BELL, was read a first time.

DECLARATIONS COMMISSIONERS BILL.

The House went into committee for the further consideration of this Bill.

Discussion (adjourned from the previous evening) was resumed on clause 6, providing that all affidavits for any purpose "except in any proceeding in the Supreme Court" might be sworn before a commissioner, and on Sir F. T. Sargood's amendment to omit the words quoted.

The Hon. H. CUTHBERT said that the words it was proposed to omit were inserted in the clause so that the privileges of the Supreme Court should not be in any way interfered with. There was no well-grounded complaint that commissioners for taking affidavits in the Supreme Court were not to be found in the country districts. If there were, the Chief Justice on being applied to would, he was confident, make such additional appointments as might be necessary. Proceedings in the Supreme Court were not as numerous now as formerly, because much of the business went to the county courts. It was not desirable that the committee should interfere in the appointment of commissioners for taking affidavits for the Supreme Court. They were appointed by the Chief Justice, and they were amenable to his control. It had been suggested that certain classes of persons, such as schoolmasters, postmasters, and clerks of petty sessions should have the right indiscriminately of taking affidavits. He would prefer that the Bill should be withdrawn than that such general legislation should be passed, as he believed that it would be most injurious in its effects. He trusted the committee would support him in the view he took that it was undesirable in that Bill to interfere with any existing privileges.

The Hon. N. FITZGERALD stated that if the amendment were agreed to it would place justices of the peace in a position of subordination to the commissioners appointed under the Bill, and that he regarded as a fatal objection. There

was great force in the remarks of the Minister of Justice. The Supreme Court would be very jealous of any interference with its privileges. If it was pointed out that inconvenience was experienced for the want of commissioners for taking Supreme Court affidavits, he was confident that the Chief Justice would at once make any additional appointments that were necessary. He was not aware that any such inconvenience existed. If the amendment were agreed to, the justices of the peace should certainly have the same privilege extended to them as it was proposed to give to commissioners under the Bill.

Sir F. T. SARGOOD observed that when the present Bill was introduced by the Minister of Justice, he stated that it was so introduced in consequence of a long-felt want of commissioners, more particularly in the country districts, and which had been brought under the notice of the Government. He (Sir F. T. Sargood) then suggested that justices of the peace should be allowed to take declarations, and he stated further that he saw no reason why they should not be allowed to take affidavits in connexion with proceedings in the Supreme Court. He did not speak on this subject from his own personal knowledge. Prior to making the remarks to which he had referred, and since, members of the legal profession had assured him that while the object of the Bill was a good one, it did not go half far enough. That opinion was supported by Mr. Brown, who had a large country practice, and also by Mr. Pratt, and a legal gentleman having an extensive country practice had that day assured him that unless the amendment was carried the Bill would be to a large extent worthless. The point had been raised that the amendment would trench upon the privileges of the Supreme Court. He would be the last person to trench upon any privileges, provided that those privileges did not seriously interfere with the public convenience. As he had said before, the people were not made for the Supreme Court, but the Supreme Court for the people. Therefore if it could be shown that the action, or want of action, of the Chief Justice was causing inconvenience to the public, something should be done to obviate that inconvenience. Mr. Brown told the House on the previous evening that, notwithstanding persistent efforts on his part to obtain the appointment of some additional commissioners, the appointments had not been made. The difficulty of getting the Chief Justice to appoint commissioners where they

were wanted had often been brought under his (Sir F. T. Sargood's) notice, and it was for that reason he moved the amendment. Under an Act passed by the New South Wales Parliament, on the 11th March, 1874, all justices of the peace had the power to receive affidavits in any court, including the Supreme Court. (Mr. Cuthbert—"Had the Chief Justice of New South Wales power to appoint commissioners before the passing of that Act?") He did not know, but he would presume so.

The Hon. J. H. ABBOTT said that if the Bill was intended to benefit the country, the Government should not cramp it by refusing to give the commissioners to be appointed power to take Supreme Court affidavits. Persons who were competent to take affidavits for the County Court should also be competent to take affidavits for the Supreme Court. He agreed with Sir Frederick Sargood, that unless the amendment was carried the Bill would be of very little use to the country districts.

The Hon. N. FITZGERALD remarked that he had heard with extreme surprise, and no less regret, the statement of Sir Frederick Sargood that notwithstanding persistent representations made to the Chief Justice of the want of commissioners for taking Supreme Court affidavits in certain districts, the appointments had not been made. (Sir F. T. Sargood—"Mr. Brown said so last night; I stated that I did not speak from personal knowledge.") Mr. Brown's statement did not convey that impression to his mind. Unless the statement was made by an honorable member as a distinct fact, he could not believe that the Chief Justice would refuse to make any appointments that were shown to be necessary. He certainly thought the Council ought to be careful before accepting any statement which reflected on the performance by the Chief Justice of the duties of his high position.

Sir F. T. SARGOOD said he had stated that he was not able to speak of the matter from his own personal knowledge. He simply repeated what was said by Mr. Brown, and what other practitioners had mentioned to him outside.

The Hon. J. M. DAVIES remarked that the object of the Bill was to appoint commissioners in places where it was not possible to get suitable persons to act as justices. This being so, why should it be proposed to give these commissioners greater powers than were conferred on justices? The Chief Justice at present conferred the

power of taking affidavits. That power was conferred as a rule upon solicitors, and, where there were no solicitors available, upon clerks of petty sessions and other public officers. The power was conferred on solicitors as a kind of honour, and was only given to solicitors of a certain standing and reputation. The court prescribed strict rules with regard to taking affidavits, and if non-professional persons, unacquainted with those rules, were empowered to take affidavits, it would lead to numerous blunders. (Mr. FitzGerald—"And proceedings might fall to pieces if there was an error in the affidavits.") In some cases it would be so. Erasures in affidavits were now not allowed, and alterations had to be made and initialled in a certain specified way. It was surely much better that the Supreme Court, which was the guardian of its own proceedings, and was the custodian of its own rules, should appoint its own officers to see that the rules were carried out. He felt certain that wherever there was a real want of a commissioner for taking affidavits in the Supreme Court, and it was made known to the Chief Justice, there would be no difficulty in getting the want supplied. There was, however, such a thing as persons who wanted an appointment trying to create a want, and the Chief Justice had to see that a real genuine want existed. In his (Mr. Davies') own practice he had never had it represented to him from any part of the country that there was any difficulty in getting an affidavit in the Supreme Court sworn, although he had had to do with the service of writs in a great many parts of the colony.

The amendment was negatived.

Discussion took place on clause 8, which provided, *inter alia*, as follows:—

"The Governor in Council may from time to time make, alter, or rescind regulations fixing the scale of fees to be paid to commissioners under this Act for taking and receiving declarations or affidavits pursuant to the provisions of this Act."

The Hon. S. FRASER moved the omission of the words "fixing the scale of fees to be paid to commissioners." He certainly thought it would be invidious to allow commissioners in the country districts—and these commissioners would not be required in the towns at all—to make a charge for taking declarations while justices of the peace were not permitted to make any charge, nor had they any wish to do so. If commissioners were appointed in the country with the power of

charging fees, it would certainly create a jealousy between some of the magistrates and the commissioners, and there was really no necessity for allowing a fee to be charged for such a simple matter as taking a declaration.

The Hon. T. DOWLING expressed the hope that the Government would not agree to alter the clause. There was not the slightest foundation for any fear that the power given to commissioners to charge a fee would create jealousy among the justices. Justices held an honorary position of which they were justly proud, and when they accepted the honour of appointment they were quite prepared to perform all the duties of the position gratuitously. The commissioners appointed under the Bill would occupy a different position, and unless they were empowered to charge a small fee the measure would prove inoperative, inasmuch as people would not be inclined to accept the appointment.

The Hon. S. AUSTIN said he saw no objection to the commissioners being empowered to charge a fee. It was pretty certain that a commissioner would only be applied to when a magistrate was not at hand, and there was not the slightest chance of friction between the two classes.

The Hon. C. SARGEANT considered that persons who were appointed commissioners under the measure would look upon the position as a small honour, and he did not think there would be the slightest difficulty in obtaining a sufficient number of commissioners to perform the functions of the office without fee. If commissioners were allowed to make a charge, Members of Parliament would be pestered by persons desiring to be appointed to the position, and this might prove embarrassing in the case of a strong supporter whom the member did not think exactly suited for the office. Again, gentlemen might be appointed commissioners in some cases who would afterwards become presidents of shires, and, therefore, magistrates. In such a case there would be a difficulty as to whether the functionary should charge a fee as a commissioner or take a declaration free as a magistrate.

The Hon. C. J. HAM stated that he would support the clause if an addition was made to it, providing that commissioners should not be entitled to charge a fee for witnessing documents under the Transfer of Land Statute. He imagined that no commissioner would be appointed a magistrate without his appointment as commissioner

being cancelled, as it would not do to have two classes of magistrates—one receiving fees and the other not.

The Hon. H. CUTHBERT remarked that if Mr. Fraser's amendment was carried it would be very difficult to get suitable men to undertake the duty of a commissioner. It was quite a different thing to accept the position of honorary magistrate, as that was a high honour, and carried social distinction with it. The commissioners for taking affidavits in the Supreme Court were empowered to charge a small fee, and he saw no reason why the commissioners appointed under this Bill should not also be enabled to receive a small fee. When a man who took up 320 acres of land, for instance, had to make a declaration, surely he could afford to pay 1s., if 1s. 6d. was too much. The amount of the fee should be left to the Governor in Council, but the power to charge a fee should not be struck out.

The Hon. D. MELVILLE said a poor man who lost the ticket for his swag at a railway cloak-room had to make a declaration. The swag might not be worth 1s. 6d., and why should he have to pay for making a declaration? (Mr. Cuthbert—"He can go before a justice.") If a person was suitable for appointment as a commissioner under this Bill, why should he not be appointed a justice if more justices were wanted in the district? The people in the country districts were often very poor, and why should they not have men who would take declarations for nothing? A man who was appointed a commissioner might be better off than a justice of the peace close by, yet the former was to be empowered to charge a fee while the latter gave his services for nothing. He (Mr. Melville) thoroughly agreed with the amendment.

The Hon. G. DAVIS remarked that there was a responsibility attaching to those who took declarations as well as to those who made them. The class of men who would be appointed commissioners could hardly be expected to give their services without some recompense. The mere charge of a shilling was a matter of no great moment, and it would afford some security to the public that declarations and affidavits would be properly made.

The Hon. J. H. ABBOTT considered that it was not at all necessary to enable a fee to be charged. According to the Minister of Justice, while in this colony respectable men could be got as commissioners if they were allowed to charge a

shilling, it would be impossible to get respectable men if no fee was allowed. He (Mr. Abbott) altogether dissented from that view. He believed that plenty of respectable men could be got to take declarations without fee, and while the charge of a shilling might seem small to honorable members, it might not appear so small to those who had to pay it. Many men would accept the position of commissioner with a great deal of pleasure, even though it was an honorary one, as they would feel that some distinction had been conferred upon them.

Sir B. BENJAMIN supported the clause as it stood. He did not see how commissioners could be expected to maintain their position and pay for a brass plate, pens, ink, and paper, unless they were permitted to charge a small fee. Those persons who could not afford to pay a fee could apply to the nearest honorary magistrate.

The amendment was negatived.

The Hon. C. J. HAM moved the insertion of the following words after "Act" (line 6):—

"But no charge shall be made by any such commissioner for witnessing any transfer or document under the Transfer of Land Statute."

It was only reasonable that these commissioners, when they had their shillings rattling in for declarations and affidavits, should be compelled to witness documents under the Transfer of Land Statute without making any charge.

The Hon. H. CUTHBERT said he would accept the amendment, because he quite agreed with Mr. C. J. Ham that the commissioners should be rendered as useful as possible. Besides, as no charge could be made by any person who under the Transfer of Lands Statute was authorized to witness transfers, it would be well that the commissioners under the Bill should also not be entitled to charge any fee for such work.

The Hon. J. M. DAVIES suggested that, in order to make Mr. C. J. Ham's amendment sufficiently wide, and also somewhat less vague, it should be amended to read as follows:—

"But no fee shall be taken by such commissioner for attesting any instrument or power of attorney under the 5th section of this Act."

The Hon. N. FITZGERALD asked whether any good reason had been shown why persons desiring transfers of land should be treated as poverty-stricken? Would such persons be so handicapped by a charge

of one shilling that Parliament ought to interfere? Was not Mr. C. J. Ham's amendment one of a sentimental rather than practical character? Again, would it not be important to retain this particular charge, in order that every commissioner concerned might be seised with a proper sense of responsibility?

The Hon. J. H. CONNOR said he would support Mr. J. M. Davies' suggestion. His idea was that no charge should be made except in connexion with affidavits and declarations required for the Supreme Court.

The Hon. C. J. HAM stated that he would accept Mr. J. M. Davies' suggestion, and he begged to be allowed to alter his proposal accordingly. He considered that Mr. Fitzgerald's arguments were sufficiently met by the fact that it was the policy of the Legislature to facilitate in every way the transfer of land.

The Hon. D. COUTTS expressed the opinion that if the commissioners were to be paid for any work of the character referred to in the Bill, they should be paid for all. No resident of a country district would object to a charge of one shilling if the effect would be to in any way insure a sense of responsibility on the part of the officer who did the work. On the contrary, it was to be feared that compelling commissioners to act in a purely honorary capacity would lessen their sense of responsibility.

The Hon. J. M. PRATT submitted that the fees to be charged should be fixed by the Bill, and not by the Governor in Council.

The Hon. S. FRASER said he saw no necessity for any charge whatever, but if there was to be a charge it should be fixed by law.

The Hon. G. YOUNG inquired what would be done with a commissioner who made a charge which he was not authorized to make?

The Hon. H. CUTHBERT replied that that commissioner would become, on complaint being made, liable to removal from office.

The amendment, amended as suggested by Mr. J. M. Davies, was agreed to.

The committee divided on the question that clause 8, as amended, stand part of the Bill—

Ayes ...	...	...	...	17
Noes ...	...	...	...	6
Majority for the clause				11

AYES.

Mr. Bell,	Mr. Dowling,
Sir B. Benjamin,	„ FitzGerald,
Mr. Buchanan,	„ C. J. Ham,
„ Butters,	„ D. Ham,
„ Cooke,	„ Pratt,
„ Coutts,	„ Simmie,
„ Cuthbert,	„ Young,
„ J. M. Davies,	Teller.
„ G. Davis,	Sir F. T. Sargood.

NOES.

Mr. Abbott,	Mr. Osmand.
„ Connor,	
„ Fraser,	Teller.
„ Melville,	Mr. Sargeant.

The Bill was then reported with an amendment.

OFFICIAL SECRETS BILL.

The Hon. J. BELL moved the second reading of this Bill. He said—Mr. President, this Bill is almost a transcript of an Act passed by the Imperial Parliament last session. In view of the large sums which the Government of England expend in purchasing the secrets of new discoveries in weapons of warfare, and of the necessity that exists for preventing persons from divulging the secrets of those discoveries, and also from giving information in connexion with fortified places, a measure called the Official Secrets Act was passed by the Imperial Parliament last session. Now the necessity also exists here of preventing any information being given to any possible enemy of particulars of our forts, our scheme of defence, and the positions of our mine fields. A great many cases have been brought to light recently on the continent of Europe in which persons have been accused of giving information to foreign countries in respect of military affairs. In one instance an Italian was convicted of giving designs and particulars of the fortress of Cologne, and also of the defences at other points on the Franco-German frontier. For this offence he was sentenced to the most severe punishment possible under the laws of France, namely, five years' imprisonment, and a fine of £200 and costs. Honorable members will see in what light crimes of this kind—offences against the nation at large—are viewed by the authorities on the continent of Europe. The Bill now before the House is almost identical with Imperial legislation, which is, in point of fact, the law of this land in common with all other portions of Her Majesty's dominions, as will be clearly shown when I read to you the 5th section of the Imperial Act. That section provides—

“If by any law made before or after the passing of this Act by the Legislature of any British possession provisions are made which appear to Her Majesty the Queen to be of the like effect as those contained in this Act, Her Majesty may by Order in Council suspend the operation within such British possession of this Act or of any part thereof, so long as such law continues in force there and no longer, and such order shall have effect as if it were enacted in this Act.”

The interpretation section of the Act sets forth that the expression “British possession” means “any part of Her Majesty's dominions not in the United Kingdom.” Therefore, it is perfectly clear that the Imperial Act is in force at the present time in this colony. But in order that we may bring the provisions of that law into unison with our local requirements this measure is now submitted. The Bill provides that where any person, for the purpose of wrongfully obtaining information or knowledge, enters into any fortress, arsenal, factory, dock-yard, camp, ship, office, or other place where he is not entitled to be, or, being there with authority, he obtains any document, sketch, plan, model, or design which he has no right to get, or takes such documents without lawful authority, or even if, being outside any fortress, arsenal, factory, dock-yard, or camp belonging to the State, he takes designs of those places without authority given by a responsible Minister of the Crown, he will be guilty of a misdemeanour.

Sir F. T. SARGOOD.—Then a man must not even take a photograph of Queenscliff?

The Hon. J. BELL.—I am speaking of fortresses. Queenscliff is a town, which is a very different thing. The Bill further provides that if any of the documents I have named come into the hands of any person who is aware that they have been wrongfully obtained, and he communicates the information or gives the documents to any one to whom in the interests of the State it is not desirable that they should be communicated, he also is liable to punishment. The Bill likewise deals with cases where persons who have been entrusted with papers of this kind in a confidential way commit any breach of such confidence by communicating the information to persons to whom in the interests of the State it is not desirable that they should give it. If any such person supplies the information to the agent of a foreign power he will be guilty of felony, and liable on conviction to fifteen years' imprisonment. There are other provisions in the Bill in connexion with breaches of official trust,

which I can explain more fully in committee. I have set forth the leading features of the measure, and seeing that it is almost identical with the Imperial Act, I hope honorable members will agree to-night to the second reading.

The Hon. S. FRASER.—Sir, I am sorry the Minister of Defence has made such a short speech in moving the second reading of this Bill. I have not had time to look carefully through its provisions. No doubt they may be necessary, or a good part of them at any rate. I glanced through the Bill hurriedly soon after it was issued, but I cannot recollect all the points that struck me then, and unfortunately I have not got my notes on the Bill here, as I did not expect the Bill to come up for consideration this evening. I am afraid that under this measure a newspaper reporter, or any person whatsoever, entering the forts at Queenscliff or elsewhere, may be given into custody and dealt with very severely. I sincerely hope that is not the case, because I know that already the authorities have winced under the lash of the press, when, in my opinion, the criticisms were amply justified, and the newspapers would have been fully warranted in lashing the Government and the Defence department a good deal more than they did. I will tell the Minister of Defence here to-night that, to my own knowledge, very grave charges can be levelled against the management of the defence works in this colony—I refer more particularly to mistakes, gross mistakes, and to many extravagancies. If this Bill be passed it will be still more difficult in the future for a newspaper to send a reporter to the forts to find out mistakes, and I hold that a newspaper has a perfect right, in the interests of the community, to send a reporter to inspect the defence works and point out any mistakes that are being made, or any improper expenditure of public money, because the publication of such information will be beneficial to the colony at large. If there are no mistakes to be pointed out, the defence authorities will get the credit which will be their due, and if any mistakes are being made it is desirable in the interests of public economy and public safety that they should be stopped. Any department of the public service may spend money lavishly, may throw it away broadcast, and nothing may be known about it by the public as long as the money lasts; but surely that is not the way that the affairs of a democratic country ought to be managed. Each

department must be held responsible for the proper expenditure of public funds, and if the defence works of the colony are not to be open to the press and the people there will be no check at all on the expenditure of the Defence department. If the Minister of Defence will consent to the postponement of the second reading of this Bill, I will be able to tell the Minister of Defence of some great extravagancies and serious blunders in connexion with some of the forts of this colony. I did not think this Bill would come on to-night, otherwise I would have been prepared to give the House the information to which I have alluded.

The Hon. J. BELL.—You can give us that information in committee.

The Hon. S. FRASER.—No doubt I can, and as I do not wish to delay Government business I will take that opportunity, which is perhaps the simplest way out of the difficulty. I may say at the present time, however, that I do not think there is any necessity for legislation of this kind in Victoria, or indeed in any of these colonies. What secrets have we in connexion with the forts of this colony?

The Hon. G. DAVIS.—We ought to have some.

The Hon. S. FRASER.—I would like to know what they are. I can understand such a measure being passed in the old country, where the Government are carrying on extensive works of a secret character throughout the whole of the year, but we are not carrying on any such works in this colony. Our forts are simple enough, and what secrets have we in connexion with them? However, I do not object to the Bill on that score. What I am afraid of is that this measure may be used to hide extravagancies and defects in connexion with our defence system, by preventing representatives of the press and citizens from visiting and inspecting the forts. Even at present the public are, in some cases—I don't say in many cases—treated with scant courtesy when they wish to examine the forts. They have to go from one officer to another, and get orders signed and countersigned before they are allowed to enter the forts.

The Hon. H. CUTHBERT.—And very properly so, too.

The Hon. S. FRASER.—I don't think any reputable, well-known citizen ought to be sent miles out of his way to get an order to visit our forts. He should be able to get an order at the fort or at head-quarters.

The Hon. J. BELL.—Yes ; that is the place—head-quarters.

The Hon. S. FRASER.—It is a very debatable point whether all reputable citizens should not have the right to visit the forts and see with their own eyes what is going on. I really think it would be better to defer the second reading of the Bill, so that the matter may be fully gone into in the course of this debate.

The Hon. J. M. PRATT.—Move the adjournment of the debate, and then you can give us the information to which you have referred before the second reading of the Bill.

The PRESIDENT.—The honorable member (Mr. Fraser) cannot speak again on the motion for the second reading of this Bill ; he has already spoken.

The Hon. J. M. PRATT moved the adjournment of the debate.

Sir F. T. SARGOOD seconded the motion, which was negatived.

The Hon. D. MELVILLE.—Mr. President, seeing that Mr. Fraser intimated that he desired to furnish to the House a large amount of information with regard to the defence works of the colony, I am rather surprised that the Government did not at once accept his challenge and agree to the adjournment of the debate. The Minister has utterly failed to show that there have been any number of prosecutions in England under the Imperial Act, and unless he can satisfy the House that the need of such legislation has been proved by the experience of the mother country, where is the necessity for such legislation in this colony ?

The Hon. J. BELL.—The Imperial Act is in force here.

The Hon. D. MELVILLE.—Which shows to my mind that there is no other Act wanted.

The Hon. J. BELL.—This Bill is to bring the Imperial Act into unison with our local circumstances. The experience of European countries has proved the necessity for a measure of this kind.

The Hon. D. MELVILLE.—But we have a very different population from the populations of European countries. In these colonies we have French, Germans—people of almost all nationalities—who have been allowed to go inside our forts all this time, so that they know everything already, and we have no secrets to preserve.

The Hon. S. FRASER.—No secrets at all ; the Minister of Defence has not pointed them out.

The Hon. D. MELVILLE.—No ; and if the object of this measure is to give more power to the military authorities to exclude duly accredited representatives of the press so as to prevent even fair comment on bad work or extravagant expenditure—the waste of public money—I cannot sympathize with the Government in proposing such a Bill. For instance, if this measure had been the law of the land some little time ago, would the authorities have used it to prevent fair comment on the action of a former Minister of Defence in going about to buy up all the old unseaworthy lighters he could lay his hands on ? Would the Defence department have considered it right to prevent the people getting to know that public money was being spent in the purchase of old, rotten lighters that would hardly float ? Would it have been quite right to have entrusted the authorities with the power of preventing the press from giving that information to the public ? It seems to me that the Government were directly challenged by Mr. Fraser's statement that their object is to suppress the press.

The Hon. S. FRASER.—I did not say that that is their object, but that the Bill has that tendency.

The Hon. D. MELVILLE.—Which is almost the same thing. The honorable member said he could show that there had been extravagance and bungling in connexion with the defence works, and I have no doubt that he could. It has been pointed out that the Pope's Eye fort has cost us thousands and thousands of pounds, and yet it is—well, I don't want to characterize it ; I leave that to Mr. Butters and others who have visited the Pope's Eye fort. It is perfectly clear to me that it would be ridiculous to pass such a drastic measure as this, which provides, for instance, that—

“The expression ‘document’ includes part of a document ; the expression ‘model’ includes design, pattern, and specimen ; the expression ‘sketch’ includes any photograph or other mode of representation of any place or thing.”

This is a very serious power to put into the hands of the military authorities. A man may go down to take a photograph of a fort or an encampment, never intending any mischief, and yet after all he may be punished because such photographs may be used in a way which the Government desire to prevent. Without being altogether opposed to this Bill, I would point out to Ministers that they ought not to be afraid of hearing all that may be said by honorable members on the subject, and that it is their

duty to give the House every opportunity for the fullest discussion of the measure. I hope that the Minister of Defence will agree to the adjournment of the debate, because the information promised by Mr. Fraser, who has evidently been preparing himself for a serious indictment of the Government in respect of bungling and extravagance in connexion with the defences, can be better considered in the course of this debate than in committee, where discussion has necessarily to be limited to one clause at a time.

The Hon. H. CUTHBERT.—But Mr. Fraser cannot speak a second time on the motion for the second reading.

The Hon. S. FRASER.—I agreed to give the information in committee. I don't want to stop the Bill, although I do not intend to vote for the second reading.

The Hon. J. BELL.—I can assure Mr. Fraser that we will give him every opportunity of discussing the question in committee.

The motion for the second reading of the Bill was agreed to.

The Bill was then read a second time, and committed *pro forma*.

PARTITION LAW AMENDMENT BILL.

The Hon. J. M. DAVIES moved the second reading of this Bill. He said—Mr. President, this measure is a reproduction of English legislation, and its object is to give a court power, in suits for partition of lands held by two or more owners, to direct the sale and division of the proceeds instead of directing the division of the land. When land is held in partnership, the articles of partnership generally provide a way in which the partnership assets can be realized on a dissolution. If there is no deed of partnership, then in a suit for dissolution of partnership the court can direct the sale of the partnership property. But land is often held by two or more owners who are not partners, they are merely co-owners of the land; land is held by them in some cases as tenants in common. Now one tenant in common can sell his interest in the land or can leave it by will, or, if he does not leave a will, his share will go to his next of kin through the administrator. Land is also held by two or more owners as joint tenants. One joint tenant can dispose of his share, but he cannot leave it by will, because if one joint tenant dies then the interest of that joint tenant goes to the surviving joint tenants. There was also another way in

which land could be jointly held, namely in coparcenary. I don't know whether any land is so held at the present time. Coparcenary was a case where a person died leaving female relatives—daughters or sisters—and no male relatives, and those female relatives took the land jointly. If there was a male relative next of kin the land would go to the one nearest to the eldest son, but if there were no male relatives, but only daughters, it would go to the daughters equally, and they would hold it in coparcenary. There was very little difference between that title and the title of joint tenants. But coparcenary is practically done away with by the present law, which makes land divisible among the next of kin. All these joint owners of land could, of course, agree to a division among themselves, and if they did there was no difficulty; but if they did not so agree the only way in which they could force a division was by a suit for partition. And in that suit for partition the court might direct a division of the land, but not a sale of the land. Now it often happens that the land is really incapable of division. For instance, it might be a property in Collins-street, consisting of a valuable piece of land, with a building upon it, and the owners might be some half-dozen persons or more, so that it would be simply impossible to divide that property among the different interests. The effect of the present law really is that in some such cases an obstructive co-owner takes advantage of the position to get more than he is entitled to. He will neither buy nor sell, nor will he consent to any kind of realization unless he is to get more than his share.

The Hon. S. FRASER.—Can he not be compelled to consent to a fair and equitable division?

The Hon. J. M. DAVIES.—Yes, in a suit of partition for a division of the property; but, as I have already stated, a division or partition of the property is, in many cases, absolutely impossible. Again, it may be that, in many cases, the parties, although willing to consent, are not able to consent. Originally the co-owners may have been friends, among whom no difficulty could arise, but the co-owners may afterwards become people who are not friends. Some of them may be people under a disability—infants or married women—and they cannot then consent to either a division or a sale. And so, seeing these difficulties in England, legislation has been brought to bear upon the subject, and it is on the lines of that English legislation that this measure is

drawn. The Bill is framed upon the basis of an English Act which was afterwards amended, and amended not in the way of altering any of the clauses that had been originally passed, but in the direction of giving greater freedom and greater power to the court to direct sales of property in such cases as I have mentioned. The first clause of this Bill provides that in an action for partition—it used to be called a suit for partition, but now it is called an action, under the Judicature Act—

“If it appears to the court that by reason of the nature of the property to which the action relates, or of the number of the parties interested or presumptively interested therein, or of the absence or disability of some of those parties, or of any other circumstance, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among them, the court may if it thinks fit on the request of any of the parties interested, and notwithstanding the dissent or disability of any others of them, direct a sale of the property accordingly, and may give all necessary or proper consequential directions.”

Now this does not make the sale of the property compulsory, it only gives an enabling power to the court, so that if the court thinks that under the circumstances of the case the sale of the property and the division of the proceeds would be more beneficial to the parties interested than the division of the property, the court may order such sale. That seems to me to be so reasonable that it really does not need anything to be said in support of it. Then clause 4 provides that on the application of the party or parties interested to the extent of one moiety or upwards in the property, the court shall, unless it sees good reason to the contrary, direct a sale of instead of a division of the property and the distribution of the proceeds among the parties. In clause 5 it is provided that if any party interested in the property requests the court to direct a sale and a distribution of the proceeds instead of a division of the property, the court may, if it thinks fit, unless the other parties interested in the property or some of them undertake to purchase the share of the party requesting a sale, direct a sale of the property and give all necessary or proper consequential directions. Clause 6 gives power to allow any of the parties interested to bid at the sale. Clause 7 merely states that section 32 of the Statute of Trusts 1864 shall extend to all cases where in actions for partition the court directs a sale instead of a division of the property. The section named has reference

to the partition of property, and it is necessary for the purposes of this Bill that it should be made to apply to cases in which the court directs a sale. Clause 8 gives power to the court, if it thinks fit, to direct that all money received on any sale effected shall be paid to any trustees of whom it shall approve, and that otherwise the same shall be paid to the credit of the Master-in-Equity of the court *ex parte* the applicant, and that in either case the money shall be applied as the court shall from time to time direct to one or more of the following purposes:—

“The discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid, or affecting any other hereditaments subject to the same uses or trusts; or the purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid; or the payment to any person becoming absolutely entitled.”

This clause follows the provisions of an Act relating to the sale of settled estates.

The Hon. H. CUTHBERT.—Is that a Victorian Act?

The Hon. J. M. DAVIES.—Yes, the Act No. 213, section 101. In the sale of settled estates the court has power to direct the money to be applied in this way; and it is necessary, in the interests of the parties concerned, that a similar provision should be made in this Bill, as in some instances the parties may be infants. Clause 9 is as follows:—

“The application of the money in manner aforesaid may (if the court shall so direct) be made by the trustees (if any) without any application to the court or otherwise, upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land.”

That clause also is taken from the Act to which I have referred. The next clause provides that until the money can be applied as aforesaid, it shall be invested in Government debentures or any other debentures upon which trust funds may legally be invested, or any public securities granted or issued or to be granted or issued by the Government of Victoria, or on first mortgage of real property in the colony of Victoria as the court shall think fit, and the interest and dividends of such debentures or securities paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. The securities upon which trust funds may be

legally invested at the present time, apart from Government debentures, are—under the Harbour Trust Act, Harbour Trust debentures, and under the Gas Company's Act, Gas Company's debentures. Both of these Acts are referred to in the margin. An Act was passed about two years ago, which provided that trust moneys might be invested on first mortgage of real property, if there was no direction to the contrary in the will, and it was thought, in drawing this Bill, that it would be wise to allow the moneys to be invested in the same way as trust moneys can now be invested. Clause 11 has reference to the parties to the different partition actions, and it is merely a transcript of a section of the English Act as amended. Clause 13 provides that where in an action for partition two or more sales are made, if any person who has by virtue of this Bill been excluded from participation in the proceeds of any of those sales establishes his claim to participate in the proceeds of a subsequent sale, the shares of the other persons interested in the proceeds of a subsequent sale shall abate to the extent (if any) to which they were increased by the non-participation of the excluded person in the proceeds of the previous sale. Clause 14 provides that in an action for partition a request for sale may be made or an undertaking to purchase given on the part of a married woman, infant, person of unsound mind, or person under any other disability, by the next friend, guardian, committee-in-lunacy (if so authorized by order in lunacy) or other person authorized to act on behalf of the person under such disability. Clause 15 simply states that an action for partition shall include an action for sale and distribution of the proceeds, and in an action for partition it shall be sufficient to claim a sale and distribution of the proceeds, and it shall not be necessary to claim a partition. Clause 16 provides that in an action for partition, the court may make such order as it thinks just respecting costs up to the time of the hearing. Clause 17 sets out that sections 34, 35, and 36 of the Judicature Act, relative to the making of rules of court, shall have effect as if they were repeated in this Bill, and in terms applicable to the purposes thereof. It merely gives the Judges power to make rules of court with reference to actions for partition as they do with reference to other actions. Clause 18, which is the last clause in the Bill, gives to the county courts the same jurisdiction as the Supreme Court in actions for partition in cases where the

Hon. J. M. Davies.

property does not exceed in value the sum of £500. At the present time the county courts have jurisdiction in other actions relating to property of the value of not more than £500, and in this clause we are simply following that precedent. Now, I think that the advantages of such a Bill as this are so obvious that I need hardly say another word about it. In this colony property is often held by two or more owners, and it becomes necessary that it should be dealt with. It is therefore important that the court should have the power to sell. One co-owner may want to realize his share of a property, and the other co-owner may refuse to do anything unless he gets more than he is entitled to. Those who have had dealings in land must know that cantankerous persons often act in this way, and it is only reasonable that, as the courts have now power to direct a division of property in all cases where a division is possible, they should have power in similar cases in which a division is impossible to direct a sale and a distribution of the proceeds.

The Hon. F. S. DOBSON.—Sir, I think that Mr. J. M. Davies is to be congratulated on the Bill he has introduced, which I trust will be accepted by the House. With the exception of one or two clauses, it is simply an enabling Bill. It is left to the discretion of the Judges who will have to deal with the applications for partition to give the relief, which it is extremely desirable should be given in cases such as those to which Mr. J. M. Davies has referred. The proposition is not altogether a new one, because under the Judicature Act, where property of a perishable nature is involved in litigation, the court has power to direct a sale and to bank the proceeds with the view to their being eventually delivered to the person to whom they rightfully belong. It is somewhat strange that legislation on this subject has not taken place long ago, because the shoe has been pinching severely, as all practitioners dealing with real property matters know. However, legislation on the subject has been adopted in England, and has been amended. It has apparently met with general approval there, and that should be a sufficient guarantee to us here, without entering into the consideration of any abstruse questions as to the origin and history of the law of partition. I need only say that I heartily support the second reading of the Bill. The measure is one that deserves the favorable consideration of the House. I have now an opportunity of saying something that has long been upon my mind.

Mr. J. M. Davies began admirably by explaining the principles of the Bill, but he afterwards went clearly outside the rules and practice of Parliament. For this he has, I am sorry to say, the authority of the Minister of Justice, whom I never yet heard make a second-reading speech which was not a breach of our standing orders.

The Hon. H. CUTHBERT.—What standing order do you refer to?

The Hon. F. S. DOBSON.—To the last of our standing orders, which tells us that where we have no rule immediately dealing with any matter that may arise, the practice of the House of Commons is to govern us. Nothing can be clearer than this, that on the second reading of a Bill all the mover has to do is to get the House to assent to its principles, and that any discussion or allusion to individual clauses is wrong.

The Hon. H. CUTHBERT.—What is your authority for that?

The Hon. F. S. DOBSON.—I will read as an authority a decision given by Mr. Speaker Brand, as reported in *Brand's Decisions*. It is as follows:—

“SECOND READING—LIMITATION.

“On the motion for the second reading of a Bill, the principle only of the measure is proper to be discussed.

“Expiring Laws Continuance Bill. Second reading. Adjourned debate.

“Mr. PARNELL, in moving that the Bill be read a second time upon that day three months, was proceeding to refer to particular clauses of the Act, when

“Mr. SPEAKER called the honorable member to order. The ordinary practice of the House on the proposal that a Bill should be read a second time was merely to discuss the principle of the measure; and in referring to the decision of Judges, and to particular clauses of certain existing Acts of Parliament, the honorable member for Meath was taking a course which was irregular.”

The reason of this is obvious. If an honorable member in moving the second reading of a Bill refers, as Mr. J. M. Davies has done, to particular clauses, he invites discussion upon those clauses, and the proper place for that is in committee. Mr. J. M. Davies told us admirably what the principles of this Bill are, but then he went on to put poison into his speech, so far as the rules and practice of Parliament are concerned.

The Hon. H. CUTHBERT.—Mr. President, I have to compliment the honorable member who has introduced this Bill. I cordially agree with its proposals, and I think that it will be found to be a sound and wholesome measure. I should like, however, to have an opportunity of conferring with the Attorney-General as to the

effect of it, and I would therefore—not with the view of opposing the measure—move the adjournment of the debate, reserving to myself the right to speak upon it when it next comes before the House. The Bill is one of such importance that I think we may well invite the country to consider its various clauses. I have been condemned by Dr. Dobson for a course which has been pursued not only by me, but many other honorable members who preceded me in the position I now hold.

The Hon. F. S. DOBSON.—It was not pursued by me.

The Hon. H. CUTHBERT.—It was pursued by many honorable members who preceded me, and I think that, on the whole, it has been an advantage to the House to have attention called in second reading speeches not only to the principles of Bills, but to important clauses. That course has, I believe, given satisfaction to honorable members, and it has grown up into a kind of practice. I am not prepared to say that it is an unsound or unwholesome practice. It has been found to work admirably here, because it has been the means of giving a large amount of information to honorable members which has been useful to them when they have come to discuss any Bill clause by clause in committee. Therefore I do not, for one moment, intend to yield to the remonstrance of Dr. Dobson, and to say that a practice which has prevailed in this House for so many years is wrong. I shall not do that unless the House signifies that it is tired of having references made to particular clauses and Bills fully explained. What took place this evening, when the Minister of Defence moved the second reading of a Bill? He stated clearly and concisely what the principles of the Bill are, and he was afterwards twitted with not having explained its provisions.

The Hon. S. FRASER.—He did not refer to the penal clauses at all.

The Hon. H. CUTHBERT.—No; and Dr. Dobson would object *in toto* to his doing that. I think that the practice of not only explaining the principles of a Bill but of calling attention to its more important clauses has had a wholesome effect. It is all very well to refer to what has been done in the House of Commons, and to say that we must be governed by its standing orders; but Dr. Dobson, who is our Chairman of Committees, has been silent on this subject for years. Why has he not long ago called attention to what he considers to be a breach of parliamentary practice?

AN HONORABLE MEMBER.—It is better late than never.

The Hon. H. CUTHBERT.—Yes, it would be better late than never if the honorable member was right; but he will have to get the House to approve of the view he expresses. Until I find that there is dissatisfaction as to the way in which I introduce Bills, I shall continue to follow the example of my predecessors. I see an honorable member opposite to me who was always very painstaking in explaining Bills when he moved their second reading.

Sir F. T. SARGOOD.—I plead guilty.

The Hon. H. CUTHBERT.—He referred to particular clauses of Bills, and I do not think that the House should be wearied when that course is adopted, so long as parts of a Bill that are not immaterial are not too fully referred to. It is difficult for a Minister to give a comprehensive view of any Bill if he confines himself to stating a few of its leading principles. If he did that, honorable members would say—"Well, this Bill has been read a second time, but what do we know about it? A few of the leading principles have been disclosed, but we must depend upon our own reading of the Bill for our information as to the machinery provided for carrying it out." As long, therefore, as the House will bear with me in the way in which I introduce Bills, I shall persevere in the plan I have hitherto adopted.

Sir F. T. SARGOOD.—Sir, I also desire to congratulate Mr. J. M. Davies on having introduced this Bill. Looking at it as a layman, I think that it will be of great benefit to the community, and will prevent a great deal of injury from being done to innocent persons by men who are co-owners of property stubbornly holding out and refusing to do anything when a division of the property becomes necessary, unless they can get more than their equitable rights. With regard to the point raised by Dr. Dobson, there is no doubt that the honorable member is correct in the view he takes. I plead guilty to having referred to particular clauses in second-reading speeches. It has been the practice to do that. In past years the House was smaller than it is now, and I do not think that much harm arose from it; but if the number of members is increased, we shall have to adhere more strictly to the practice of the House of Commons. Otherwise the time of the House will be too much occupied by second-reading speeches, which practically take the place of committee speeches. While Dr. Dobson was speaking

I was reminded of the fact that Mr. Service, on almost the first night he sat in this House, said, in reference to a speech that had been delivered, "That is not a second reading speech; such a speech would never be allowed in the Assembly." This clearly showed that in the Assembly it was the practice to refer to the principles of a Bill, and not to its individual clauses, on the second reading. At the same time, I cannot but admit that the reading of particular clauses somewhat fully in a second reading speech is often a convenience to honorable members who may not have had an opportunity previously of seeing the Bill. It may be a convenience also to Ministers, if they have not had an opportunity of thoroughly considering the Bill before submitting it to the House. I have known such a thing to happen, and I have no doubt that it will happen again. I do not think that much harm has been done by the practice, or that much harm will arise from its being continued for a time, even though it be a distinct departure from the practice of the House of Commons.

The Hon. J. M. PRATT.—Mr. President, I think that the manner in which Mr. J. M. Davies moved the second reading of this Bill was very satisfactory to the House. From the lucid explanation he gave, honorable members have obtained a very clear idea of what the provisions of the measure are. No harm is done by referring to important clauses in a second reading speech, as the House is not in the habit of debating Bills at any great length, but is, on the contrary, rather inclined to dispose of them too quickly. This Bill will be the means of doing an immense amount of good, and I trust that it will be accepted by the House.

The Hon. G. DAVIS.—Mr. President, I feel some sympathy for the honorable member who has submitted this Bill to the House. When he gave notice of the Bill, an honorable member of considerable influence, whose advice is usually accepted, remarked that, in moving the second reading of the measure, it would be necessary to give the fullest possible explanation of it. Mr. J. M. Davies did that to the satisfaction, I think, of the majority of honorable members, and now he is taken to task by our Chairman of Committees in rather severe terms.

The Hon. F. S. DOBSON.—Oh, no.

The Hon. G. DAVIS.—I thought so. The restriction mentioned by Dr. Dobson could not be imposed upon honorable

members under all circumstances, except by a very strict reading of our standing orders. The practice of referring only to the principles of a Bill on the second reading might be adopted in regard to some large and important measure, but this is simply an enabling Bill, and it is necessary to explain its provisions. To lay down any hard and fast rule would be inconvenient and embarrassing. The precedent quoted by Dr. Dobson will not be accepted by members of this Chamber as one of great weight, because I think we all recognise that to the case referred to exceptional conditions may apply. Systematic obstruction to the introduction of measures may have been resorted to, and under such circumstances the Speaker may have deemed it necessary to give a strict interpretation of the standing orders. I am disposed to agree in the course the Minister of Justice has adopted, and to ask Dr. Dobson, in his position as Chairman of Committees, to be as lenient as he can.

The Hon. D. HAM.—Mr. President, I also desire to congratulate Mr. J. M. Davies on having brought forward this Bill, which will I think meet a long-felt want. I would like, however, to know whether this debate is in order. I understood that the Minister of Justice moved that the debate be adjourned.

The PRESIDENT.—No.

The Hon. H. CUTHBERT.—If I did not move the adjournment of the debate, it was certainly my intention to do so.

The PRESIDENT.—The Minister of Justice suggested that the debate should be adjourned, but there was no motion made on the subject.

The Hon. H. CUTHBERT.—Then will you now allow me to formally move the adjournment of the debate.

The PRESIDENT.—The honorable gentleman can do so when Mr. D. Ham has concluded his speech.

The Hon. D. HAM.—If I can speak again, I will forego my right at present.

The PRESIDENT.—The honorable member cannot speak again on the motion for the second reading of the Bill.

The Hon. D. HAM.—Then I would like to ask Mr. J. M. Davies if I am correct in the view that if a property exceeds in value £500, the application for partition must be made to the Supreme Court?

The Hon. J. M. DAVIES.—Yes. The jurisdiction will be the same as in other cases.

The Hon. D. HAM.—That may be a wise provision, but it appears to me to be a contradiction of the spirit of the Bill. The Bill will meet a long-felt want, and I have much pleasure in supporting it.

The Hon. H. CUTHBERT moved the adjournment of the debate.

The PRESIDENT.—Before the motion for the adjournment of the debate is put, I would like to say a few words with reference to the remarks of Dr. Dobson, which—and I do not think the honorable member did it intentionally—reflected upon the conduct of the business of the House, and consequently indirectly upon myself. The honorable member is, of course, at perfect liberty to raise such a question. He may be correct in his view with regard to the practice of the House of Commons, but the same practice has not been strictly adhered to in this House, and we know that even the Chairman of Committees often allows honorable members to make second-reading speeches in committee when they should confine themselves to the particular clause under consideration. This evening the Minister of Defence moved the second reading of a Bill, and explained in the clearest possible manner its general principles, leaving the individual clauses to be dealt with in committee. An honorable member, however, found fault with the speech, on the ground that it did not convey sufficient information to the House. Dr. Dobson and the Minister of Justice have, I have no doubt, gone to the two extremes on this question. It is for the House to control its own debates. My attention has not been called to this matter before, and I am in the habit of allowing the greatest latitude to honorable members so long as they do not openly transgress the rules of the House. I trust that this little discussion will have the effect of leading not only the Chairman of Committees, but every other honorable member to endeavour to keep more strictly within the rules of debate, and the practice of Parliament than they have perhaps hitherto done.

The motion for the adjournment of the debate was agreed to, and the debate was adjourned until Wednesday, July 2.

CRIMINAL LAW AMENDMENT BILL.

The Hon. H. CUTHBERT moved the second reading of this Bill. He said—Mr. President, this Bill, which is really very important, is entitled “a Bill to further amend the criminal law, and for other

purposes." It is divided into five parts. The first part relates to offences against the person; the second may be said to treat of offences against property; the third is very short, and relates to the serious crime of perjury; the fourth has reference to punishment; and the fifth deals with pleading and procedure. Now we have an admirable statute bearing on the criminal law, which is called the Criminal Law and Practice Statute 1864. It was in existence before 1864, but our criminal law was consolidated at that period. In that consolidation very great pains were bestowed upon this particular statute. There are very few Acts of Parliament which give evidence of greater care in their preparation than this one does; but the gentlemen who are engaged in the conduct of prosecutions on behalf of the Crown have found that even in this statute there are some defects. It is to some extent with the view of overcoming these defects that this Bill is now introduced. It has another object, and that is to give effect to the recommendations of the Judges of the Supreme Court relative to punishments, which were communicated to Parliament in 1887-8 and 9. It would be a most difficult thing for me to convey to the House any idea of the importance of the alterations that it is proposed should be made in our criminal law, were I not to refer to some of the clauses of the Bill. Even if I incur the displeasure of our Chairman of Committees, I think he will excuse me if I venture to allude to a few of its leading provisions, in order to show what its principles are.

The Hon. F. S. DOBSON.—Hear, hear.

The Hon. H. CUTHBERT.—Then we will take clause 4 of the Bill, which is as follows:—

"Whosoever shall attempt to commit murder shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding fifteen years."

Honorable members will probably ask what is novel in this clause, seeing that the law at present provides adequate punishment for any attempt to commit murder. Will the House bear with me while I state what is the law on the subject, as contained in the Act of 1864? There are four sections in that Act dealing with attempts to murder. The first relates to the administering of poison, or wounding with intent to murder; the second to destroying or damaging buildings with like intent; the third to setting fire to or destroying ships, with like intent; and the fourth to attempting to poison,

drown, or shoot, with like intent. Now in the latter section we find these words—

"Whosoever shall attempt to administer, or shall attempt to cause to be administered to, or to be taken by any person any poison or other destructive thing, or shall shoot at any person, or shall, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person . . . with intent . . . to commit murder, shall (whether any bodily injury be effected or not) be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding fifteen years."

There are these four sections dealing with different phases of the crime of attempting to murder, and then there is this general provision—

"Whosoever shall by any means other than those specified in any of the preceding sections of this Act attempt to commit murder shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding fifteen years."

There was a noted criminal named Grogan, and a constable was sent out to arrest him. The man pulled out a loaded revolver, and presented it at the constable; the constable sprang upon him and seized the revolver before he had time to pull the trigger, although it was evidently his intention to have done so. A bystander then came up, and took the revolver from the criminal's hand. That man was prosecuted under the section of the Act of 1864 which declares that whosoever shall shoot at any person, or shall by drawing or in any other manner attempt to discharge any kind of loaded arms at any person with intent to murder, shall be guilty of felony. He was found guilty, but the case afterwards came before the Supreme Court, the point being raised that inasmuch as the man did not actually pull the trigger of the revolver, he could not properly be accused of having attempted to commit murder. The result was that the conviction was quashed. As an illustration of the necessity of amending our laws, I would like to refer to what was said by the Chief Justice with reference to the case. It is reported in *Victorian Law Reports*, vol. 15, part 2, and the extracts I desire to read are as follows:—

"R. v. GROGAN.

"The Criminal Law and Practice Statute 1864 (No. 233) s. 11.—Attempt to commit murder: attempt to shoot.

"The prisoner drew a loaded revolver from his pocket with intent to shoot the prosecutor, but, before he could do anything else in order to discharge the revolver, he was seized and overpowered.

"Held, there was no evidence to convict the prisoner under section 11 of Act 233, and that the mere drawing from his pocket a loaded revolver was not an attempt to discharge it at another person by drawing a trigger or in any other manner."

The Chief Justice said—

"The nature of the attempt, and the acts by which alone the attempt can be carried into execution, are narrowly defined by the law, which makes the attempt to discharge loaded firearms with intent to murder a felony. The acts constituting the attempt are limited to the act of drawing the trigger or in any other manner attempting to discharge the loaded arms. These words of definition point clearly, in our opinion, to such acts only as are the proximate and immediately antecedent cause of the discharge of the arms. We are constrained to accept this view of the intention of the Legislature.

It has been truly observed (*Stephen's General View of the Criminal Law of England*, p. 124) that on every one of these sections more or less subtle questions arise similar to the one that has been raised in this case, all of which give chances of impunity to criminals; and the same learned writer has suggested that all these questions might be avoided by comprehending the whole of these sections about attempts to murder in the words 'whoever shall attempt to commit murder shall be guilty of felony, &c.' The suggestion is one that appears to deserve the consideration of the Legislature. But while the law remains as it is, we entertain no doubt that the mere drawing of a loaded revolver from his pocket by the accused person is not an attempt to discharge that revolver at another person by drawing the trigger or in any other manner. The conviction must be quashed, and an entry will be made on the record that, in the judgment of this court, the prisoner Andrew Grogan ought not to have been convicted."

That is the reason why we seek to amend the law in the way indicated in this particular clause. I now come to another offence. Our law is very strict with regard to carnally knowing and abusing a child of tender years. In the case of a child under ten the punishment is death, and that is not altered by the Bill. If a child between ten and twelve is carnally abused, even with consent, the law provides a punishment of imprisonment not exceeding fifteen years. It is considered that the age of twelve is too low, and it is proposed in clause 5 to raise it to fourteen, and instead of making the offence a misdemeanour as it is at present it is proposed to make it a felony. The maximum punishment provided is imprisonment for ten years, but if the offender be a teacher and the girl his pupil the maximum imprisonment is raised to fifteen years. Where a man takes advantage of his position as a teacher it is considered that he should be more severely punished than an ordinary criminal. An attempt to have carnal knowledge of a girl between ten and fourteen is made a misdemeanour, and the

punishment is imprisonment for any term not exceeding three years, but if the person be a teacher and the child his pupil he may be imprisoned for five years. Clause 6 provides that no prosecution for an offence of this kind shall be commenced more than three months after the commission of the offence. This is the English law, and I think it is a very wise provision. Then there is a new crime, which formerly was not known in this colony or the adjoining colony of New South Wales, but which, I am sorry to say, is not uncommon now; that is incest. Strange to say it is not an offence under the English law, although it was in the time of the Commonwealth, and it is not an offence under our law, but it is an offence under the Scottish law. The notorious case of the McCarrons, in connexion with which the father and daughter are now undergoing punishment for the destruction of the offspring of their incestuous intercourse, shows, I think, how necessary it is to put down this offence by the strong arm of the law. This is provided for by clause 7, which renders any person having carnal knowledge of a woman or girl who is his daughter, or other lineal descendant, liable to imprisonment for life. Clause 8 makes a woman or girl over eighteen years, if she is a consenting party to incestuous intercourse, also subject to punishment for her guilty conduct. Clause 10 relates to the crime of rape. It is very difficult, in many cases, to obtain convictions, owing to the severity of the sentence—death. Counsel urge in forcible addresses that a conviction would consign the accused to the gallows, and frequently the ends of justice are defeated from this cause. It is proposed in some degree to modify the law, and to provide as follows:—

"If on the trial of any person charged with the offence of rape the jury are satisfied that the offence charged has been committed, but that there were circumstances connected with the commission of the crime which appear to mitigate the offence, the jury may return as their verdict that such person is guilty of the offence so charged with mitigating circumstances."

In cases accompanied with great violence and atrocity, of course it will remain with the jury to bring in a verdict of guilty without mitigating circumstances, and then the criminal will be subject to the extreme penalty. I believe that this clause will have a potent effect in assisting justice. Clause 11 provides against the abuse of female lunatics, even though they be consenting parties, by those under whose charge they

are. There is a safeguard provided, very properly I think, that no person is to be convicted of an offence against this provision "upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused." The punishment that may be awarded is imprisonment not exceeding three years.

Sir F. T. SARGOOD.—Is not that too light?

The Hon. H. CUTHBERT.—In committee perhaps it would be well to increase it by a year. The next clause relates to indecent assaults upon females. At present such assaults are not punishable under any of our statutes. They are only punishable at common law, and at common law the Judge may imprison and fine. The power of fine and imprisonment is unlimited.

The Hon. S. FRASER.—Is not that enough?

The Hon. H. CUTHBERT.—I do not think so. An assault on a girl under twelve is made punishable by statute, and why should not an indecent assault on a girl over twelve be also made a statutory offence? Where do we find the common law recorded and the sentence of the court limited? Is it not well that every one who runs may read? Clause 13 deals with assaults occasioning bodily harm. At the present time such an assault is only a common law misdemeanour, punishable by fine and imprisonment and an order to find sureties. Here we provide that if any person be convicted of an assault occasioning actual bodily harm he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding five years, and whosoever shall be convicted upon presentment or indictment for a common assault shall be liable to imprisonment not exceeding two years. Part 2 of the Bill refers to offences against property. Section 65 of the Crimes Act is repealed, and a new provision substituted which is as follows :—

"Whosoever being a bailee of any property shall fraudulently take or convert the same or any part thereof or any property into or for which it has been converted or exchanged to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof on presentment or indictment for larceny.

"The accused shall be taken to be a bailee within this section, although he may not have contracted to restore or deliver the specific property received by him, or may only have contracted to restore or deliver the property specifically."

The object of the latter portion of the provision, which is new, is to make certain offences which at present can only be dealt with on the civil side of the court punishable as larceny. Clause 16 amends the law with regard to stealing or damaging books belonging to a public library. It is provided that if any person steal or damage with intent to steal any book or other article kept for reference or exhibition in any public library or any building belonging to the Crown, or to any university, college, or municipality, he shall, on conviction before two justices, be liable to imprisonment for twelve months, and may also be ordered to pay four times the value of the article. There is a similar provision in the New South Wales Act, and I think this is a desirable addition to our law. Part 3 of the Bill refers to the fearful crime of perjury. At present we have no statute dealing with perjury. In England there is a statute which makes the punishment seven years' imprisonment. The Tichborne claimant was charged with perjury on two counts, and got seven years on each. In Victoria the offence is merely a common law misdemeanour, and is punishable with fine or imprisonment. It will be remembered that in a recent case the Judge sentenced five men who were convicted of conspiring together to commit perjury to nine years' imprisonment, and juries afterwards acquitted five other men who might perhaps have been regarded as equally guilty. I think it is well to put on our statute-book the punishment which the court has power to award in cases of perjury, and clause 18 fixes the maximum punishment at fifteen years' imprisonment. Part 4 relates to punishments. Clauses 21, 22, and 23 empower the court to order whipping in certain cases. This is proposed in consequence of a recommendation of the Judges; and having regard to the character of the offences referred to—rape, attempted rape, and assaults with personal violence—I think it will be admitted that this power may be properly conferred. It is also provided that in cases where a sentence of death for murder has been commuted, the punishment of whipping may be ordered. The last part of the Bill is really of a technical nature. It refers to pleadings and procedure, and I will explain it more fully in committee. The pleadings and procedure are founded on the practice of the court at the present time. Where a person is charged with a felony, if the jury believe he is not guilty of the greater offence they may find him guilty of a misdemeanour. For instance, in a charge of rape the jury

may find him guilty of an attempt to commit rape. Provision is made where a girl is a child of tender years for receiving her unsworn testimony in certain cases, but no person is to be convicted unless such testimony is corroborated by some other material evidence. Again, it is provided that when a person is charged with an offence under part 1 of the measure, other than an attempt to commit murder or an assault occasioning bodily harm, the husband or wife shall be competent but not compellable witnesses. Clause 28 gives courts of justice power to punish persons publishing reports of legal proceedings when forbidden to do so. We provided in the Justices of the Peace Statute that where an order of the court of this character was disobeyed, the person disobeying it should be brought up, not before the court which made the order but before a different tribunal, and punished. The Judges of the Supreme Court have asked that they shall have the power of punishing for disobedience of their order, and this clause has been inserted in deference to their wishes. Clause 29 gives power to exclude the public from court on grounds of public decency. Of course this does not refer to witnesses, unless they are ordered out of court. Clause 30 relates to a statement by a prisoner at his trial. There is a rule of the Supreme Court as to the time at which a prisoner is to make a statement, and the clause merely gives effect to that rule, so that there shall be uniformity of practice between the Supreme Court and the court of general sessions. Clause 31 provides that counts for previous convictions may be added to the presentment at any time before the verdict. The jury, of course, know nothing about the presentment so far as these previous convictions are concerned, and it is not until after the prisoner has had a fair trial and has been found guilty on the charge brought against him that there is an opportunity on the part of the Crown to prove these previous convictions. Of course it is right that before giving sentence the Judge should know the character of the criminal, and of what offences he has been previously convicted. There has been great difficulty in proving previous convictions, and the object of this and the subsequent clause is to facilitate their proof. Under the present system the Crown is put to great expense in proving previous convictions; but after this Bill is passed, it will no longer be necessary to put the Crown to the cost of bringing witnesses from different parts of the country to prove

previous convictions that have already been proved at a previous trial before a Judge. Clause 38 provides that, upon the order of a Judge, the chairman of quarter sessions, or a police magistrate a prisoner may be brought before a court to give evidence without a writ of *habeas corpus*. It is somewhat similar to a provision made in the Gaols Statute.

The Hon. G. DAVIS. — And a somewhat dangerous power in this country.

The Hon. H. CUTHBERT. — I do not think there is any danger to be apprehended from the operation of this clause, and it will save needless expense, because at the present time it is necessary to get a writ of *habeas corpus* from the Supreme Court and to give evidence in each separate case. Clause 41 relates to a very important matter. In cases of bigamy it is sometimes very difficult to secure convictions on account of the difficulty of getting proof of marriage, and this clause facilitates the proof of marriage on a trial for bigamy. Under the present law the prosecution must prove the marriage by the evidence of some person present at the ceremony, and also that it was a lawful marriage according to the laws of the country in which it was performed. We propose to simplify proof of marriage in other portions of Her Majesty's dominions in trials for bigamy, in the manner described in clause 41. Clause 44 proposes to give a power of search when it is supposed that a female is detained in any place for immoral purposes, and it defines what constitutes detention for immoral purposes, and also the powers conferred by a search warrant and the mode of its execution. Clause 45 provides that in cases where the natural guardians of a girl under sixteen years of age have lost control over her, or have abandoned her to her own will, it shall be in the power of the court to divest her natural guardians of all authority over her, and appoint a guardian to take charge of her until she has attained the age of 21, or any such age below that as the court may direct. Clause 46 sets forth that subpoenas in criminal cases may be issued by sheriffs and deputy sheriffs. In clause 47 power is given to any justice to take a preliminary examination in any place where a witness is lying ill. Honorable members may remember a recent case in which a doctor was charged with performing an illegal operation. The woman was lying dangerously ill in a public hospital, and the doctor was brought there while her evidence was taken; but I question very much if it was not altogether illegal to take the accused

man there. This clause will legalize such a course of procedure, however, and I think it is surrounded with sufficient precautions for the protection of the public. I have endeavoured, without wearying the House, to explain the provisions of this very important Bill, which I hope will commend itself to honorable members generally.

Sir F. T. SARGOOD.—Mr. President, as a layman, I beg to thank the Minister of Justice for the very clear way in which he has explained the provisions of this Bill. It is not by any means an easy subject to deal with; it is certainly not a pleasant one, and I think the House is indebted to the Minister of Justice for the able manner in which he has laid before us his own views, and for the lucid explanation of the various clauses which he has given. I would also like to take this opportunity of complimenting the honorable gentleman and the Ministry upon the number of important Bills they have already submitted to this House. In previous sessions I and other honorable members have had occasion to take exception to the dilatory way in which Bills have been introduced to this House; and hence it is all the more pleasant to me on the present occasion to be able to congratulate and compliment the Ministry on the number of important measures they have already introduced, not only here, but in another place. There is no doubt that we shall have abundant work for the remainder of the session, owing to the fact that the Government were so well prepared to meet Parliament. This Bill deals with many important matters, and probably the most important is the question of the abuse of children of tender age. It is a subject which has been before the public for some years back. Honorable members will recollect that it was under the consideration of this House a few years ago, but was not fully dealt with, and there has been from that time to the present, I think I may say, a general demand for legislation in the direction of this Bill, namely, in the way of increasing the age at which consent can be given, and dealing with other questions of a more or less important character in connexion with this subject. The provision in clause 5 with reference to crimes committed by schoolmasters and teachers is new legislation here. It has been the law of New South Wales for some time, and has not, so far as I am aware, been found otherwise than beneficial. I am inclined to think that the provision in clause 7 might be extended with advantage so as to include, at any rate, a step-daughter.

I call the attention of the House to the subject with a view of the question being more fully discussed in committee. Some of the punishments in several instances are in my opinion too light, and at the proper time I shall endeavour to induce honorable members to support amendments with a view to the increase of those punishments. Imprisonment for two years for such an offence as that alluded to in clause 11 does seem to be too short a term, and I gather that the Minister of Justice agrees with me in that opinion. Then again, in clause 13, which provides for a term of imprisonment not exceeding five years in the case of an assault occasioning actual bodily harm, it appears to me that five years may be too short a term of imprisonment in the event of lifelong injury to the party assaulted, and some of us can recollect cases of that kind. I could understand the limit of five years imprisonment in cases of ordinary assault, where only a temporary injury is committed. Clause 16 provides that a person may be imprisoned for twelve months for damaging a book in a public library.

The Hon. S. FRASER.—Damaging it “with intent to steal.”

Sir F. T. SARGOOD.—Of course, I am aware of that; but I happened to have before me at the same time the Infant Life Protection Bill, in which I find that the punishment for damaging a child is only twelve months, and it seems to me rather strange to provide the same punishment for two such different offences. The one or the other term of imprisonment is too long or too short.

The Hon. H. CUTHBERT.—We have not done with these Bills yet.

Sir F. T. SARGOOD.—Quite so; and I mention the fact for the consideration of honorable members. I have no doubt the Bill will receive careful attention in committee. It may require amending in certain minor matters, but in the main I think the Bill will command the approval of the House, and certainly I have every satisfaction in supporting it.

The Hon. S. FRASER.—Mr. President, I think this Bill will prove a very useful measure indeed. It is greatly needed, and the Ministry are entitled to credit for its introduction. It contains, however, certain provisions in which, I think I shall be able to show when the Bill is in committee, there is some danger to innocent persons. I am sure that that is not the intention of the framers of the Bill. For instance, I think it would be a monstrous thing to

subject a boy of tender years who may be just as innocent as a girl of the same age, or just as guilty as the case may be, to the terrible punishments provided in this Bill. I hold that there should be some explanation as to the meaning of "person" under this measure, in which "person" is so frequently referred to without any qualification as to age or anything. There is nothing in this Bill to protect the innocence of a boy of tender age—even though he is almost a child—and I think the Minister of Justice will acknowledge that no difference should be made between the youth of both sexes in some cases where they are on the same footing as regards their innocence or criminality. It is possible to conceive of a case in which a girl of tender years, brought up in infamy, may get hold of an innocent boy of the same age, with a result to that innocent lad which it would be horrible to contemplate. I hope that the Minister will, at any rate, guard against cases of that kind when the Bill is in committee. Viewed as a whole, the Bill is really a very good measure, and it will have my hearty support.

The Hon. D. MELVILLE.—Mr. President, in common with other members of this House I beg to congratulate the Ministry upon having provided us with a good fund of work at the commencement of the session. I am always glad to see important measures dealt with early in the session. Without going into the various matters contained in this Bill, I desire to bring before the House the extraordinarily protracted nature of many of the cases now coming before the courts of this colony. Honorable members will notice that cases brought before police magistrates are not always dealt with in a day or even a week, as much as a month being sometimes occupied in what, after all, is but a preliminary examination. The practice seems to be to take up as long a time as possible. I trust that some method will be devised to save innocent citizens from the absolute ruin which may be brought upon them before they can be proved to be innocent under the present mode of legal procedure. The cases that are now going on before the Melbourne Police Court may be very properly cited as an illustration of the evils of our present system. Under the guise of a preliminary examination as to whether the accused should be committed for trial those men may be ruined, even if they are innocent, before they can prove their innocence. That is practically what our law amounts to to-day. Half-a-dozen of our prominent citizens were suddenly assailed under

the criminal law procedure, and day by day their fellow-citizens see them writhing under a torture as bad as men had to endure in the days of the Inquisition. Sir, I should not be surprised if some of these men are innocent, and die during the examination that is now going on in the police court. I don't see how Ministers can ask us to go into small matters, while they leave the giant evil that is going on in our police courts untouched. Under the present system honest reputable citizens may be actually ruined by the costs of a preliminary examination.

The Hon. H. CUTHBERT.—How is that to be avoided?

The Hon. D. MELVILLE.—I am not prepared to say, but I bring the matter before the House and ask honorable members and the Government, is this intolerable state of things to be allowed to go for all time? Is it not possible for us, as intelligent human beings, in the light of the advanced civilization of the present age, to devise some remedy for this monstrous evil? The people are becoming alarmed at the growing tendency towards protracted examinations and protracted trials, not only under the criminal but also under the civil law. So long as the money lasts, trials and suits go on and on, as if they would never end until one or other of the parties was ruined. If they were standing in the place of the men to whom I have alluded, would not the Minister of Justice, would not many members of this House and many reputable citizens outside cry out to the bench, in the midst of their terrible torture, "For God's sake commit us?" Rather than submit to an expense of thousands of pounds and to the torture of having a sword suspended over their heads, with the sickening certainty that, even though innocent, ruin was before them, they would prefer to be at once committed. I do not ask the House to go out of the way at all to interfere in the cases I have mentioned; but there is a procedure provided in this Bill, and we might deal with the matter in that connexion. Protracted preliminary examinations are not the only thing which accused persons have to fear. When the parties are committed, and are before the court on these various charges, then commences the war anew. Has it come to this—despite the advance of civilization from the days of Greece and Rome down to our own time—that it is practically impossible for us to suggest any reasonable method of getting through these examinations of our fellow-citizens in a reasonable time?

The Hon. S. FRASER. — Can you suggest a remedy?

The Hon. D. MELVILLE.—I would be prepared with others to make suggestions at the proper time. On this occasion I am taking the opportunity of impressing the House and the country with the undesirability of continuing the present inhuman process. But I will make one suggestion now. Go to the criminal courts, and what do we find? The same antiquated method of writing down the depositions by the old slow process which was followed in the days of long ago, before railways and telegraphs were invented—writing out the evidence in the old hum-drum way, in longhand, with a quill, and stopping the case now and again to sharpen the quill.

The Hon. S. FRASER.—Every judge should have a shorthand writer.

The Hon. D. MELVILLE.—We are beginning to get suggestions now. I am perfectly satisfied that by bringing these matters before the House and the country we will surely find some remedy, and I hope we will be able to originate something in this House. I am perfectly amazed at the terrible torture which men who were recently associated with the Minister of Justice in the Government of this country are undergoing at the present time—assuming that these men are innocent—a torture worse than thumb-screws and other fiendish instruments inflicted on the victims of the Inquisition. The length to which criminal cases are protracted in this colony is a disgrace to our civilization, and as we are at the beginning of a session, let us take counsel together with our fellow-citizens and see what we can do to bring accused persons more quickly through their trials, and to save innocent citizens and their families from ruin. I am satisfied that he will be a benefactor to his species who devises a remedy that will simplify and facilitate legal procedure in the law courts of this colony.

The Hon. J. M. DAVIES.—Mr. President, I need scarcely say that I thoroughly approve of the principle of this Bill, which has been laid before us in such a clear and admirable manner by the Minister of Justice that every honorable member must be impressed with its necessity; but I wish to say a word or two with reference to procedure. I certainly think that if the practice of taking evidence by shorthand writers were adopted, the time occupied in cases such as have been referred to by Mr. Melville would be shortened by one-half or

two-thirds. Gentlemen of my branch of the legal profession are sometimes accused of desiring to lengthen legal proceedings; but I can inform the House that, upwards of three years ago, a suggestion was made by the Law Institute of Victoria to the Supreme Court of the colony that in all cases the evidence should be taken down in shorthand and transcribed from the shorthand notes by means of type-writers.

Sir F. T. SARGOOD.—And a Bill was drafted by the Service Ministry.

The Hon. J. M. DAVIES.—I know nothing about a Bill having been drafted, but I do know that this suggestion was made, and that up to the present time it has had no effect. If that method were adopted the expense of litigation in long trials would be reduced by more than one-half, and it would prove one of the greatest boons that could be conferred by Parliament upon that unfortunate portion of the community which is subject to litigation. I do trust that the Government will see their way to do something in this direction.

The Hon. S. FRASER.—Why not insert a provision in this Bill?

The Hon. J. M. PRATT.—Mr. President, I join with Mr. Melville and Mr. Davies in the suggestion that provision should be made in our courts of law for taking evidence in shorthand and transcribing it by means of type-writers. I may point out that this Bill is headed "a Bill to further amend the Criminal Law and for other purposes," and I therefore think it is possible to deal with the matter in this measure. Perhaps the Minister of Justice will give his attention to the suggestion and see if that can be done.

The Hon. F. S. DOBSON.—It is a question of money.

The Hon. J. M. PRATT.—But if we can obtain such a useful result as will justify the cost, I don't think we should hesitate to carry out the suggestion because it will entail the expenditure of a certain amount of money.

The Hon. F. S. DOBSON.—Hear, hear.

The Hon. J. M. PRATT.—If the practice of using shorthand in taking evidence were adopted in all our courts of law it would conduce to justice.

Sir F. T. SARGOOD.—And to economy in the long run.

The Hon. S. FRASER.—And efficiency.

The Hon. J. M. PRATT.—Yes, I believe it would conduce to both economy and efficiency. Merchants are beginning

to find out that the most useful employes are those who can write shorthand, because a merchant can give directions for carrying out his correspondence to a competent shorthand writer as quickly as he desires. And seeing that the value of shorthand has been so well established and is so thoroughly understood in mercantile practice, why should we not use it for taking evidence in our courts of law? Why should we continue the present antiquated system of taking down depositions in longhand, which is so slow and therefore so costly a method? I have no hesitation in saying that the proceedings which are now going on in the Melbourne Police Court are a scandal to the administration of justice in this colony. The court meets at about eleven o'clock and adjourns about three, and, as Mr. Melville said, a system of legal torture is going on there from day to day. Such a system is unjust to both prosecutors and defendants, and I certainly think that in the cases now proceeding in the city court some relief should be given. I trust that when this Bill is in committee the Minister of Justice will be prepared to move the insertion of a clause dealing with this most important subject.

The motion for the second reading of the Bill was agreed to.

The Bill was then read a second time, and committed *pro forma*.

The House adjourned at five minutes past ten o'clock, until Tuesday, July 1.

LEGISLATIVE ASSEMBLY.

Wednesday, June 25, 1890.

Victorian Naval Forces—Railway Department: New Workshops at Ballarat: Werribee Train Accommodation—Kerang and Koondrook Tramway—Dog Act—Education Department: Euroa Board of Advice—Assent to Bill—Marriage Act Amendment Bill—Distress for Rent Law Amendment Bill—Suburban Tramways Company Bill—Kew Church of England Lands Bill—Presbyterian Trusts Bill—Melbourne Tramways Trust Borrowing Powers Bill—Eight Hours System—Councils of Conciliation Bill—Adjournment.

The SPEAKER took the chair at half-past four o'clock p.m.

VICTORIAN NAVAL FORCES.

Mr. W. T. CARTER asked the Premier the following questions:—

"1. Are the officers and men who serve in the Victorian Naval Forces exclusively under the regulations under the Victorian Discipline Act of 1870, or are they also under the Queen's

regulations of the Imperial Naval Forces; and, if so, to what extent?

"2. Has the attention of the Minister of Defence been directed to the recent general order in reference to salutes, whereby it is demanded that officers under the rank of commissioned officers shall be saluted ashore, and when in plain clothes, and that no excuse shall be taken from the men for not recognising such officers?

"3. Has the attention of the Minister of Defence been called to the fact that numbers of men are leaving the service, the State thereby losing the value of their training?"

He stated that the effect of the recent general order relating to salutes would be extremely anomalous, inasmuch as, in the dredge service, the positions of the officers and men in the Victorian Naval service were frequently reversed. As to the last question, he might mention that there was a rumour abroad that many men were about to leave the naval service owing to their dissatisfaction with the existing management.

Mr. GILLIES stated that the following answers to the honorable member's questions had been forwarded to him from the Secretary for Defence:—

"1. The officers and men of the Victorian Naval Forces are, whilst serving within the limits of the colony, subject exclusively to the regulations under the Victorian Discipline Act of 1870; but where not inconsistent with this Act and the regulations under it, the Queen's regulations and Admiralty instructions are taken as a guide in all matters affecting discipline.

"2. Yes. The Naval Commandant also informed the Minister that the salute to officers in plain clothes, when under the rank of commissioned officers, was not required.

"3. The attention of the Minister of Defence has not been called to the number of men leaving the service. According to the returns, 29 men have left during the past six months. Of these, five were dismissed for misconduct, one was transferred to the public service, and 23 were discharged. Included in the discharges are changes in cooks and stewards, men leaving at their own request, and men considered unsuitable for the service."

RAILWAY DEPARTMENT.

Lt.-Col. SMITH asked the Minister of Railways if there was any truth in the rumour that the Government intended to send workmen from Melbourne to do the work necessary for lighting the new workshops at Ballarat; and, if not, would he give the workmen of Ballarat an opportunity of doing the work or of competing for it?

Mr. GILLIES stated that the following reply had been forwarded to him by the Chairman of the Railway Commissioners:—

"We have a staff of gasfitters employed as the department requires when any work of this kind has to be done. The maintenance of such work has to be attended to by the same staff, and their

knowledge of its construction is consequently valuable. Work of this kind at any one place is too small to admit of local tradesmen being employed with any advantage."

Mr. ARMYTAGE asked the Minister of Railways if he would request the Railway Commissioners, when re-arranging the Melbourne and Geelong train service, to consider the claims of the residents of the suburb of Werribee to a train which would enable them to arrive at Spencer-street at an earlier hour than 10.15 a.m.?

Mr. GILLIES said the case in question would be dealt with in a time-table which would probably be issued next month. It was now in the printers' hands.

KERANG AND KOONDROOK TRAMWAY.

Mr. TAVERNER asked the Minister of Railways if he would obtain a report from the Railway department on the stability and utility of the Kerang and Koondrook tramway, with a view of considering how far that system could be adopted for supplying the northern district with railway communication?

Mr. GILLIES replied that he had no objection to obtain any information on the subject as to matters of fact, but the stability and utility of the tramway in question were matters of opinion, and could hardly be made the subject of an official report.

DOG ACT.

Mr. GRAVES asked the Acting Minister of Lands if he would consider the desirability of taking steps to abolish the registration fee of 5s., as provided for under sections 5 and 9 of the Dog Act 1884, on dogs kept solely to destroy vermin in duly proclaimed rabbit and vermin infested districts? He stated that this fee was greatly objected to, because it was found to press hardly on many farmers who had no other means of keeping down the vermin on their lands than the use of dogs. Besides, the collection of the fees was very expensive. He believed, indeed, that in many cases the councils entitled to them let them go to the dog-tax collectors as payment for their trouble.

Dr. PEARSON said it was held to be very important that all dogs should be registered, and, as the fee in question was a very small one, it was not thought advisable to remit it.

PETITION.

A petition was presented by Mr. BEST, from Daniel Bourke, praying for relief in

connexion with a decision of the Education department.

EDUCATION DEPARTMENT.

Mr. GRAVES moved—

"That there be laid before this House a copy of the papers relating to the recent resignation of the members of the Board of Advice No. 99, Euroa."

He said he would be satisfied if the papers were laid on the table of the Library.

Dr. PEARSON said he would be happy to take the last-mentioned course.

The motion was withdrawn.

ASSENT TO BILL.

Mr. GILLIES presented a message from the Governor, intimating that, at the Government offices, that day, His Excellency gave his assent to the Railway Loan Act 1889 Amendment Bill.

MARRIAGE ACT AMENDMENT BILL.

The House went into committee for the consideration of this Bill.

Discussion took place on clause 2, which was as follows:—

"Notwithstanding anything contained in the principal Act, if any minister of religion is convicted of any felony or misdemeanour or any breach of the principal Act, or in the opinion of the Governor in Council is guilty of any misconduct in the celebration of any marriage, it shall be lawful for the Governor in Council to prohibit such minister from celebrating marriages in Victoria. Notice of every such prohibition shall be published in the *Government Gazette*, and such prohibition shall take effect from a day to be specified in such notice, and thereupon any minister named in such notice shall cease to possess the qualification to celebrate marriages."

Mr. BENT asked whether he correctly understood the Attorney-General to say, the previous evening, that this clause would have no retrospective effect?

Mr. WRIXON stated that the clause as it stood would have no retrospective effect whatever. Still, in order to remove all doubt on the subject, he begged to move the insertion after the word "if" (line 2) of the word "hereafter."

Mr. BENT inquired why the clause was so drafted as to apply only to ministers of religion? Why were registrars excluded? Why should it not apply to any person authorized to celebrate marriage, so that all might be treated alike?

Mr. WRIXON observed that the point the honorable member for Brighton sought to establish was a good one, but it was completely met by the terms of the existing law, under which the Governor in Council

had power to dismiss any registrar or deputy registrar. It was only the ministers of religion concerned who could not at present be touched.

Mr. L. L. SMITH said he wished to dwell upon a subject more important than that alluded to by the honorable member for Brighton. He wanted to refer to the case of a certain gentleman who habitually boasted of the large number of persons he had brought into marriage bonds—whose pride it was that he had performed many thousands of marriages. (An Honorable Member—"And all happy.") No; the majority had turned out most unhappily. As a medical man in general practice, and also as a man of the world, he (Mr. Smith) could bear witness to the terrible consequences that had ensued from giving this power of marrying to a person of that sort. There was no need to indicate who the gentleman was, because he was well known in connexion with certain recent legal proceedings. He (Mr. Smith) could not sufficiently describe the misery that had been entailed on many families in consequence of the facilities afforded by this gentleman to unthinking couples to enter on the married state. How many a father's heart had been wrenched by finding that his son had been led, by bad advice, and also by these facilities, to unite himself for life with some low woman who could only drag him down? And how many cases of a different character—where the person injured was a daughter—might be quoted? How many households had been ruined by this means? He knew himself of instances in which Mr. Kinsman had, without asking the proper questions, or taking the proper steps, assisted to bring about marriages which had resulted in families being brought to utter misery, and also in promising youths being damned for the rest of their lives. For example, he had in his mind the case of two youths, as promising if not as brilliant as any to be found in the colony, whom these fatal facilities had led into premature marriage, and what was their condition now? Each with three or four children round him, and utterly unable to extricate himself from the predicament into which he had fallen. What provision against that sort of thing did the Bill make? None whatever. Why did it not contain some stipulation that before a marriage could legally take place some time for inquiry should be afforded, and some step should be taken to discover whether the parents concerned were or were not consenting parties? He was sorry to

have to speak on this subject, but his feelings with respect to it were very deep. Besides, his experience in connexion with it was considerable, for he had had dozens and dozens of persons coming to him, complaining of marriages of this sort, and inquiring piteously whether any remedy could be afforded. But unfortunately no remedy could be found. Under these circumstances he would urge the Government to at all events make it a strict condition that before marriage there should be some interval for giving notice and inquiry, and also that the punishment for any infraction of the rule should be signal and exemplary.

Mr. DUFFY stated that he was rather at a loss to understand the action of the Attorney-General in this matter, as he (Mr. Duffy) had been led to believe that the Bill was introduced on account of the scandal created by the marriages performed by a certain individual. As far as he knew, that was the sole reason for the measure. It appeared that a certain individual well known to fame—fame of a certain character—had obtained by fraud, or, at all events, in a highly improper manner, authority to marry people, and that he had exercised that authority in a scandalous manner. But how far would the Bill go to prevent similar scandals arising? What check would it place upon this individual? It simply set forth that in future a minister of religion who married people improperly could be prevented from marrying people at all. How would that meet the case? Why did not the Bill take power to deal with the individual who had offended? That was what was asked for. Surely the Attorney-General could, with a little ingenuity, contrive to amend the Bill so as to make it, perhaps not exactly retrospective, but applicable in the proper quarter; and it was to be hoped that he would do something of the sort.

Mr. W. T. CARTER expressed the opinion that if the Attorney-General would adopt the suggestion made by him (Mr. Carter) in the course of the debate on the second reading of the Bill, namely, that any clergyman, licensed to perform marriage, who gave up his ministerial function so far as to enter into business should have his authority to marry people taken from him, the whole case would be met. With ministers having congregations there could be little or no danger, because what they owed to those congregations as well as to their denominational heads would assuredly preserve in them a very lively sense of their responsibilities in the matter.

Mr. T. SMITH said he trusted that the Attorney-General would not think of going to the length suggested by the honorable member for Williamstown. What would be the effect of adopting such a plan? It would simply be to prevent ministers of religion from doing any of the hundred-and-one things on behalf of themselves or of their families which they might reasonably do, for fear it would be called "going into business." That would be a most improper restriction. Neither should the Attorney-General accept the advice of the honorable member for Dalhousie. The gentleman referred to had been dealt with already. He had been tried, found guilty, and punished, and that ought, in the interests of fair play, to be regarded as enough. (Mr. L. L. Smith—"Look at the thousands he has ruined.") He (Mr. T. Smith) could assure the honorable member for Mornington that he had not an atom of sympathy with the gentleman in question, but at the same time he would not admit him to be as black as the honorable member had painted him. The point was that if people wanted to get married, they would get married somehow. On the other hand, it should be borne in mind that if neither this gentleman nor others in a similar position would perform the ceremony, for say 20s., 25s., or whatever the fee might be, the registrars of marriages appointed by the Government would be sought after—as they ought to be sought after—for the purpose, and then the fee would not be more than 5s. or 7s. Indeed, it was to be hoped that the time would soon come when every couple who wanted to be married would go to a registrar and no one else.

Mr. TRENWITH remarked that there could be no doubt that if no person occupying a position like that of the gentleman to whom so much reference had been made was allowed to perform marriage, people would go to the registrar, but in that case a most essential difference would be established. For example, no registrar would perform a marriage until after proper notice had been given. There would be a certain interval, during which there would be an opportunity for persons to object to the proposed marriage taking place. Would not that, considering the misery frequently involved in two persons under age marrying without the knowledge of their friends, be an immense improvement upon an arrangement under which such a couple could go to the gentleman alluded to, and get married on the spot? In his (Mr. Trenwith's) opinion it should be made impossible for any couple

to marry legally until reasonable notice had been given, so that the other persons interested might have an opportunity of coming in and using argument or persuasion or something else in the matter. Unquestionably most of the marriages of young people in a summary way, which they had had afterwards every reason to regret, would not have been entered into at all had their friends any previous knowledge of their intentions. It was to be hoped that the Attorney-General would seriously consider whether some means of securing due notice of every marriage could not be adopted. People in the most extreme hurry could surely wait three days at least.

Mr. BENT stated that he thoroughly sympathized with the Attorney-General in his disapproval of retrospective legislation, which was always dangerous. The honorable gentlemen was at present going on a sound constitutional principle, and honorable members all round ought to afford him all the help in their power.

Mr. WRIXON considered that the discussion on the Bill had been most interesting. In reply to the honorable member for Richmond (Mr. Trenwith) he would remark that it would not do to stretch the law relating to marriage too much. Besides, it already substantially provided for due notice of marriages. In his (Mr. Wrixon's) own church—the Church of England—three weeks' notice had to be given. (Mr. W. T. Carter—"Not with a special licence.") Whenever a special licence was issued thorough inquiries were always made. On the other hand, in connexion with every civil marriage three days' notice was required. The case to which so much reference had been made was most curious, for the individual in question was the head of his particular denomination or church, and the way in which he became so was very peculiar. The evil of the arrangement was a great one, and no doubt the Government would give it their careful consideration. Certainly this was the only instance known to them of marriages being habitually celebrated without notice. As to the point brought forward by the honorable member for Dalhousie, who suggested that the Bill should be made retrospective to a certain extent, it should be observed that it was designedly rendered non-retrospective, and the insertion of the word "hereafter" in the way proposed would make the thing doubly clear. Were the question of how to deal with the case recently before the courts the only one the committee had to consider, he (Mr. Wrixon)

might be inclined to agree with the honorable member, but that was not the fact. What honorable members had to think of was whether they would deliberately sanction the principle of retrospective legislation. With respect to the suggestion of the honorable member for Williamstown, it should be noticed that the existing law substantially carried out the honorable member's view. For instance, section 6 of the Marriage Act provided as follows :—

“ If any minister, priest, or deacon whose name has been registered with the Registrar-General as aforesaid die, or depart from the colony, or cease to exercise the functions of an officiating minister, or be degraded or deprived of his authority as a minister by his superior or by the recognised church court or tribunal of the denomination to which he belongs . . . the fact of such death, departure, cessation of ministry, degradation, or deprivation . . . shall within 90 days be registered in like manner with the Registrar-General.”

(Mr. W. T. Carter—“ And what if he goes on celebrating marriages?”) If his certificate had been withdrawn he would be guilty of felony.

Mr. DIXON thought that almost every one would agree with the Attorney-General's views as to retrospective legislation. For himself, he was in most thorough accord with them. He also agreed with the honorable member for Richmond (Mr. Trenwith) that at least three days' notice should be insisted upon, as far as possible, in connexion with every marriage, and that a provision to that effect should be inserted in the Bill. The Attorney-General referred to the case of marriages by Church of England clergymen, and to the three weeks' notice required for the publication of banns, and so on, but that rule did not always apply. People could be married in an Anglican church by special licence without any notice being given, and the consequence had been a number of marriages of a most undesirable character—worse than anything honorable members had heard of yet. For example, there was one which was celebrated by a Church of England clergyman, and which afterwards occupied the attention of the Supreme Court. He knew of a case where a young man and his father and mother induced a young girl about eighteen years of age, who was supposed to have money coming to her from the old country, and whom they also got to a certain extent under the influence of drink, to give a forged consent to her marriage, alleged to have been written by her mother, and the ceremony was celebrated by a respectable minister of the Church of England. That

unfortunate girl lived in misery for a time, was then deserted by the scoundrel who had married her, and by his parents, and she had to go back to her mother in disgrace. This was not the only case of the kind which had come under his notice in connexion with the Church of England, and the Government ought to take steps to prevent these early marriages without due notice, so that parents may be informed and an opportunity be given them for reasoning with their children if they are under age.

The amendment was agreed to.

Sir B. O'LOGHLEN moved that the word “ indictable ” be inserted before the word “ misdemeanour ” (line 3). A misdemeanour might be a very slight offence. For instance, a person fined £1 for driving on the footpath would be barred from celebrating marriages under the clause as it stood. But if “ indictable ” was inserted, the offender would have had to be previously convicted of a misdemeanour on trial before a jury.

Mr. WRIXON said he would be very glad to accept the suggestion.

The amendment was agreed to.

Sir B. O'LOGHLEN said it was a very serious question whether Parliament should give to the Governor in Council power to decide on the guilt or innocence of any person in respect of alleged misconduct in the celebration of a marriage, seeing that no machinery was provided by which the accused could be summoned and heard in his defence. The words “ in the opinion of the Governor in Council is guilty of any misconduct ” would create another tribunal—a sort of star chamber. It was a principle of English law that no person accused of any offence should be found guilty until he had had the opportunity of being heard in his own defence, but under this clause as it stood a man might be accused and convicted behind his back without the opportunity of saying a word for himself. No doubt the Governor in Council could take care that proper inquiries were made, but it was known that difficulties had arisen in connexion with former Acts of Parliament under which the Governor in Council had to decide upon the facts of certain cases. Any accused person was entitled to be heard before some other tribunal prior to being dealt with by the Governor in Council. The question in his mind was as to whether the clause should stand in its present form, or machinery should be provided whereby the guilt or innocence of the accused might be determined.

Mr. WRIXON observed that the honorable member had done quite right in calling attention to this very important point, but was Parliament to confine the operation of the measure to cases where ministers of religion were convicted of indictable offences, and not to provide some way of reaching ministers who had been guilty of other grave misconduct in the celebration of marriages? For example, if a minister were drunk on more than one occasion while celebrating marriages he could not be dealt with unless the law contained a provision like the one to which the honorable member objected. If cases of that kind were to be dealt with, it was not desirable to provide any other machinery; it would be preferable to leave the matter in the hands of the Governor in Council. Honorable members might rest assured that if the Government of the day were prepared to advise the Governor in Council to deprive any minister of religion or other person of the right to celebrate marriages, the case would be one of a serious character which ought not to be overlooked. Parliament must either leave such cases to the discretion of the Governor in Council or limit the operation of the measure to dealing with ministers who had been convicted of indictable offences. He admitted that the course proposed in the Bill was open to some objection, but he contended that it was the least objectionable of the two proposals. Governments always desired to avoid undue criticism; they would not act in any case without good reason, and for whatever they did they were liable to Parliament.

Sir B. O'LOGHLEN expressed the opinion that no man should be debarred from the right to celebrate marriages on the ground of alleged misconduct until the case had been at least inquired into and reported upon by a board. Would the Attorney-General agree to insert the words "or on the report of a board appointed by the Governor in Council to inquire into such alleged misconduct." As the clause stood it would cast an odious responsibility upon the Governor in Council.

Mr. WRIXON said the responsible Minister of the Crown was bound to make careful inquiries, and ascertain that there was positive proof of misconduct before he advised the Governor in Council to deprive a man of the right to celebrate marriages.

Sir B. O'LOGHLEN remarked that such a mode of inquiry might not be satisfactory or even just to the accused man, who would

prefer to have the charge of misconduct investigated by a proper tribunal.

Mr. G. D. CARTER said he thought the best course would be to strike out the words "or in the opinion of the Governor in Council is guilty of any misconduct in the celebration of any marriages." Within the past week public feeling had been shocked by the fact that the Governor in Council had ordered the exhumation of a dead body simply on receipt of an anonymous letter, and that action would cause an amount of misery and discredit to a perhaps entirely innocent person. If this clause was passed in its present form, any person might write an anonymous letter to the Attorney-General for the time being, alleging misconduct against any minister of religion or other person who was entitled to celebrate marriages, and without any further trial, without any opportunity of proving his innocence, the accused man would be disgraced. (Mr. W. T. Carter—"Then the Attorney-General would have to answer to this House."). What was the use of that? If the Attorney-General blasted the honorable member's reputation, would it be any consolation to him when he was a ruined man to find that the Ministry had gone out of office? The Government might be put out in a case of that kind, but what satisfaction would it be to the innocent man whom they had injured? Surely a man was not to be prohibited from marrying persons on the mere statement of somebody or other that he had done something wrong. If so, why not carry the principle a little further, and make it apply to the members of Ministries and Members of Parliament, many of whom would be prohibited from the exercise of their rights and privileges if they were to be judged by the standard of conduct laid down by the present pure and enlightened Ministry? Most men had their little weaknesses and failings, but when a case came before the Government the question was not a matter as to whether a man was innocent or guilty. The question was—"Are you a Ministerial supporter or are you not?" or, "Are you a 'wobbler' who may possibly become a Ministerial supporter by a little judicious treatment and a certain amount of concession?" For instance, if a man wanted a railway, and was not quite sure which way he was going to vote, he would get that railway if his vote was the turning point of the existence of the Ministry. And so it would be in cases under this clause. If a man had taken, say, some strong coffee before celebrating a marriage, and it was alleged that

he was intoxicated, I don't think that man would be found guilty of misconduct, judging from the past, if he and his friends were supporters of the Government; but if, on the other hand, the honorable member for Maldon, or the honorable member for Williamstown, or any other man who was a straight oppositionist were accused of similar misconduct, neither he nor his friends would have the slightest chance of proving his innocence—he would be found guilty for a certainty, and prohibited from marrying people any more. He begged to move the omission of the words, “or in the opinion of the Governor in Council is guilty of any misconduct in the celebration of any marriage.”

Mr. MUNRO observed that the words ought to be struck out. It was not right to constitute the Governor in Council a secret tribunal to deal with cases of this kind. The Governor in Council should only deal with cases where the courts of the land had found men guilty of breaking the laws. In such cases the Executive had all the facts laid before them; but at the best the Governor in Council was a secret tribunal.

Mr. W. T. CARTER said he hoped that this amendment was not proposed in earnest. He was against the striking out of the provision in question, because he could clearly see that it would be most effective in carrying out the main purpose of the Bill. The Attorney-General would be amenable to the House for any advice he might give to the Governor in Council, and if his recommendation were made before the party accused was given an opportunity of clearing himself from the charge, such a course of procedure would be regarded as most disgraceful to the Minister. (Mr. L. L. Smith—“The ‘Governor in Council’ in this case means the Attorney-General.”) And that was where the strength of the provision lay, because the Minister was answerable to Parliament for any recommendation which he made to the Governor in Council. The measure would certainly be crippled if the amendment were agreed to, and the Government would be prevented from exercising proper jurisdiction over the officers of that department, which was what they were seeking to do by the clause under consideration.

Mr. GRAVES stated that the object of the honorable member for Melbourne would be gained by limiting the amendment to the omission of the words “or in the opinion of the Governor in Council.” He presumed that the honorable member did not wish to exempt from the operation of the clause a

person who “is guilty of any misconduct in the celebration of any marriage.” The clause as it stood would give power to the Attorney-General for the time being to dismiss any registrar of marriages at his own sweet will, and it would be very unjust to leave persons so accused to the mercy of a Minister of the Crown. The alleged misconduct should be proved by a proper tribunal before the accused was dismissed by the Governor in Council.

Mr. G. D. CARTER said he would accept the amendment suggested by the honorable member for Port Fairy. He did not object to the right of celebrating marriages being taken from one who had been found guilty of grave misconduct in celebrating a marriage, but he objected to the dismissal of any man on the strength of an anonymous communication, which seemed to be sufficient for some Governments, and he objected to any man being tried and found guilty without having an opportunity of offering a word in self-defence.

Mr. DUFFY remarked that he sympathized with the object of the Attorney-General, who very properly desired to get rid of persons who were ready to celebrate marriages improperly, but he coincided with the feeling of the committee that the machinery for accomplishing that object was rather dangerous. Why not insert a provision that anybody so dismissed might appeal to a board, so as to give him a chance of being heard in his own behalf? That would only be fair play. It was not such a terrible thing to deprive a man of the power of celebrating marriages when the Government of the day were deliberately of opinion that he had improperly used that power, but there was a feeling in the House—and it would be still stronger in the country—that every accused person ought to have a fair trial.

Mr. WRIXON said he would be glad to introduce an amendment providing for any person accused of misconduct in celebrating a marriage being heard by a board, but he would like time to consider the best way of accomplishing the object which the honorable member for Port Fairy had in view. On the third reading of the Bill he would be prepared to make a suggestion on the point if the committee would pass the clause.

Mr. G. D. CARTER observed that, on the understanding that the Attorney-General would meet the wish of the committee in this matter on the third reading of the Bill, he would withdraw his amendment.

Sir B. O'LOGHLEN expressed the opinion that the difficulty might be overcome by inserting the words “on the finding

of a board appointed by the Governor in Council to inquire into the alleged misconduct."

The amendment was withdrawn.

Mr. WRIXON remarked that, in order to meet the point raised by the honorable member for St. Kilda, he proposed to add to the clause certain words to provide that no marriage celebrated by any minister who had been prohibited from celebrating marriages should be invalidated on that account only. He believed that was already provided in the principal Act, but as it was of great consequence, to prevent children being rendered illegitimate, it would be best to put the matter beyond doubt. He therefore begged to move the addition to the clause of the following words:—

"But no marriage in fact celebrated by any minister so prohibited shall be avoided by reason only of such prohibition if either of the parties to the marriage shall at the time *bonâ fide* have believed that such minister was qualified to celebrate marriages."

The amendment was adopted, and the clause as amended was agreed to.

The Bill, having been gone through, was reported with amendments.

DISTRESS FOR RENT LAW AMENDMENT BILL.

Mr. WRIXON.—Mr. Speaker, I beg to move the second reading of this Bill.

Mr. MUNRO.—Say "this day six months," and you will have the whole House with you.

Mr. WRIXON.—No; I hope it will be read a second time to-night. I think I shall be able to command the assent of the House to this measure, which is one of those reforms that have been advocated by every social reformer for years past.

Mr. STAUGHTON.—You ought to have called it the "Time Payment Men's Bill."

Mr. WRIXON.—I am quite aware there is a little feeling about this question in the minds of some honorable members, but the House remembers that we represent the whole people, and not one portion alone—we represent all classes of the community, and not any one section only. I will show to the House that the proposals in this Bill are based on absolute justice and fair play, and that there is no justification for our present distress for rent law, which rests on absolute injustice. If the tenant of a house owes rent, the owner of the premises has a right to go in and seize what is in the house and sell it to pay the rent—he has

the right to seize articles which do not belong to his tenant or to the family of the tenant. He may seize a sewing-machine belonging to the wife of the tenant, who has purchased it out of her own hard-earned savings, and who is struggling to earn a livelihood for her family; in fact, I will call the attention of the House to one case in which a landlord seized a sewing-machine which the wife of the tenant had bought on credit for the purpose of following her own occupation as a dressmaker.

Mr. TURNER.—She was living in the same house with her husband.

Mr. WRIXON.—Certainly; but is the honorable member aware that, years ago, the Parliament of this colony passed an Act to enable a wife to hold separate property of her own, whether residing in the same house or not; and does the honorable member mean to say that we should make that Act null and void in the case of every wife who lives with her husband? Why, such a thing would be perfectly anomalous. The law of England provides that, with certain exceptions with which I will not trouble the House, any goods seized on the premises of a tenant under a distress warrant may be taken and sold for rent of the premises. That has been the law of distress in England for some time past, but it was not the law of England in the early days. The old English law set forth that under a distress warrant the landlord might take any property found on the premises, and hold it in his possession until the rent was paid, but he was not entitled to sell or otherwise deal with the property he had seized. The Imperial Parliament, however, passed legislation which enabled landlords to sell goods seized for rent—the law being altered by the landlords' House—and that has remained the law of England ever since, so that a landlord to whom rent is owing may, under the law of distress in England, enter the house of his tenant, seize whatever he finds on the premises, and sell the goods, even though some of the property which he has seized does not belong to the tenant, but to persons who have not been paid for the goods. We have thus this curious state of affairs brought about, that not only is the landlord to be paid before anybody else—and I really don't know why—not only is he entitled to be paid before the storekeeper, the furniture dealer, the butcher, or the baker, but he is actually entitled to be paid, and often is paid, out of the proceeds of the sale of goods that belong to the storekeeper, the furniture dealer, or

other tradesmen from whom his tenant has obtained goods on credit. Nothing, I am told, is more common than the seizure of sewing-machines and furniture obtained by tenants on undertakings to pay for them by periodical instalments. The landlord will allow the tenant to fall in arrears with his rent for a certain time until the sum overdue amounts to close upon what the furniture will fetch by auction, and then, if the rent is not at once paid, he puts in a distress and seizes and sells the furniture, so that he is not only paid before any other creditors, but out of the very property of another man to whom his tenant is indebted. I say that wherever that is the law it is not justice, and it is not right. My own remedy would be to abolish the law of distress for rent altogether, and put the landlord in exactly the same position as any other creditor.

Mr. STAUGHTON.—The tenants would then have to pay their rents beforehand.

Mr. WRIXON.—I am aware that there is a strong feeling against any such drastic measure, and I recognise that we have all branches of the Legislature to consider. I only want us to make a small and reasonable step in advance of the existing law in regard to landlord and tenant—a step which has commended itself to the approbation of every intelligent jurist in England and in America, a step that is sanctioned by the highest authorities in law and in social science both at home and here. I merely ask the House to affirm a proposal of justice and common sense, namely, that the landlord shall not be entitled under a distress for rent to seize any other than the property of the tenant.

Mr. T. SMITH.—The tenant will never have any property when that is the law.

Mr. WRIXON.—Then I am sorry for the landlord, but I am equally sorry for the other creditors, who are also to be considered. I merely want justice and common sense.

Mr. STAUGHTON.—This is a “No Rent Bill.”

Mr. WRIXON.—I can assure honorable members that the landlord's rights will be just as much preserved as the rights of any persons; they will not be in the least imperilled by being put on grounds of justice and common sense. I stated just now that there were cases in which landlords had seized and sold sewing-machines and furniture bought by struggling wives on credit, and which belonged to other creditors. I will read one from among many such cases brought before our own Supreme Court, and I may remind honorable members who seem

to treat this question with some levity that cases of this kind often occur, and they create a deep feeling of irritation and a sense of wrong among a large portion of the people, although perhaps we are not so sensitive to their feelings as we might be. Now, sir, it appears from the report of this case, which came before our own courts and is recorded in the *Victorian Law Reports*, vol. xii., page 46, that—

“The evidence for the plaintiff was that Mrs. Bush carried on business as a tailor apart from her husband, who, however, lived with her in a house rented by him, and who was a stonemason by trade; that Mrs. Bush hired the sewing-machine from the plaintiff for use in her business under an agreement in writing; that £2 10s. was due at the time for rent of the house; that at the time the machine was seized Mrs. Bush was engaged in making a dress, but was not actually using the machine; that she told the bailiff not to take the machine; that at the time there was other furniture in the house of the value of about £10; that at that time she was getting lessons in the working of the machine; that she owed the plaintiff the deposit on the machine and also the rent for it, having had it then about a fortnight; that the price of the machine by time-payment was £10 5s., for cash £9 6s.”

So that although she owed so much on the machine, which was therefore the property of another creditor, the landlord seized the machine, notwithstanding the fact that there was also in the house other furniture of equal value which belonged to her. The owner of the sewing-machine sued the landlord for its recovery, but the court held that its seizure under the existing law was a thoroughly legal proceeding. Now these are things which, as I have said, cause a feeling of irritation and a sense of wrong and injustice among the lower classes of the people.

Mr. DIXON.—Among the time-payment men.

Mr. WRIXON.—And among the people who buy from the time-payment men, and who have not money enough to purchase what they require right out. In many cases these poor women have to live by the use of sewing-machines which they obtain on the time-payment system, and have we not the same principle of time-payment going on in connexion with our building societies and our friendly societies? The case lies in a nutshell. What I wish to press upon the House is this, that we should protect not merely the people who own houses, but also the tenants, and the public generally. I affirm, without fear of contradiction, that the small measure of relief the Government propose has been

sanctioned by the highest authorities, both judicial and social, in the old country, and in America, and by passing it I believe that we shall remove a social wrong which may not at present attain great proportions in this country, but which does attain great proportions in other countries in which it exists, and which may do so here if it is not checked.

Mr. GRAVES.—Does the honorable gentleman say that this is the law of England?

Mr. WRIXON.—No, but it is sanctioned by the highest authorities in England, and only about eighteen months ago the Lord Chancellor, discoursing on this law, said he could never understand on what principle it rested. The House should not hesitate to do an act of justice a little in advance of the old country, before the social conditions of the colony assume such a character that wrongs of this nature must create a real sense of grievance in the minds of the people. I am anxious to meet all views, and I recognise that it is right that if we deprive landlords of the unreasonable privilege they at present possess, we should give them a more prompt and summary means of ejecting tenants who do not pay their rents. The means provided at present are, I admit, not sufficiently summary. It is, therefore, proposed in the last clause of this Bill to shorten the time specified for ejectment.

Mr. LEONARD.—To what time?

Mr. WRIXON.—Seven days.

Mr. LEONARD.—That is the law now.

Mr. WRIXON.—Where the Landlord and Tenant Statute requires thirty days, this clause provides seven days, and where that statute requires seven days, this clause provides for three days. Ample means will be afforded to landlords to get tenants out promptly. I ask the House now to stand, as it has done on many occasions, in the van of reform, and not to maintain a system which is unjustifiable and altogether contrary to the principles of right.

Mr. MUNRO.—Sir, there is no member of this House who has more sympathy with the poorer classes of the community than I have; and I believe that no greater injury could be inflicted upon them than the passing of this Bill. I will give my reasons for saying that. If, at the present time, a poor man goes to a person who has a house to let, that person will at once accept him as a tenant, and give him possession, if he sees that he has a certain amount of furniture, and is of decent character. If

however this Bill becomes law, a poor man will not be able to get a house at all, unless he is able to find guarantees for the payment of the rent. The Attorney-General tells us that the compensation he proposes to give to the landlords for the rights of which this Bill will deprive them is an expeditious system for expelling defaulting tenants. But what will happen then? Suppose that a landlord lets a house without security, and that at the end of the first week the rent is not paid—in three days he can turn the poor tenant into the street, and no other landlord will then let a house to him. Are such persons to be left houseless? It seems to me, that the whole object of this Bill is to confer benefit upon those blood-suckers, the time-payment furniture men.

Mr. GILLIES.—What is a building society?

Mr. MUNRO.—A building society is an institution which enables men by regular payments to become owners of property. If a man purchases £100 worth of furniture on the time-payment system, and he fails to pay the last £5, he forfeits the whole. That does not happen in connexion with a building society. The building societies of Victoria have done more good for the working classes than have any other institutions, by enabling men to acquire property and to improve their position socially. The proposal contained in this Bill is, I repeat, made solely in the interest of the time-payment people.

Mr. GILLIES.—So the landlords say.

Mr. MUNRO.—The honorable gentleman may be a landlord himself for aught I know. Now the Attorney-General asks why a landlord should be in a position different to that of a grocer. I will tell him. A man cannot go to a grocer's shop, sit down there, and take meal after meal without paying for it. If he goes to a grocer's shop one day for a pound of sugar, and does not pay for it, he cannot return on the following day and get another pound of sugar. On the other hand the person who takes a house remains in it, and if he does not pay his rent he can only be ejected after a great deal of trouble.

Mr. L. L. SMITH.—And he may damage the house.

Mr. MUNRO.—Yes. The grocer and the landlord are therefore not on an equal footing. If the Attorney-General would introduce a Bill providing that the time-payment people, after they have got back three-fourths of their money, should in the

event of default make an allowance for the amount repaid I would support him, and I would say that he had done a very proper thing. But we are asked now to do something that will be of benefit to the time-payment people. The wife of a man who becomes a tenant of a house, and who has no money of his own, may have property under the Married Women's Statute. A time-payment man may have supplied the husband with some furniture, and may have been paid the whole amount due to him with the exception of a few shillings. If the small balance is not forthcoming he may sweep everything away, and then there is nothing left for the landlord, who may not have received a penny of his rent. I believe in fair play all round. The most just plan to adopt would be to give landlords a moderate lien on the furniture of their tenants, and this I contend would be the best plan in the interests of the poorer classes themselves, who would not otherwise be able to get houses. The Bill is a most iniquitous one, and I trust that it will not be accepted by the House.

Mr. T. SMITH.—Mr. Speaker, I must express my surprise that this Bill should be again introduced after the extremely warm reception it met with last session. I am at a loss, even after the explanation of the Attorney General, to know why such a proposal should be made, and to understand what kind of people it will benefit, save and except those of one particular class.

Mr. GRAVES.—And those only.

Mr. T. SMITH.—Yes. In my opinion this Bill has been framed—I do not say intentionally—in the interest of the time-payment furniture people. It is not necessary to enter upon the discussion of the principles of the time-payment system. It has, I suppose, been the means of assisting a number of persons to get homes; but it is not an unmixed blessing, as we may learn from the columns of the *Age* newspaper. I say that this Bill has been framed in the interests of the time-payment people, and that it will certainly operate to the disadvantage of all landlords and tenants. By landlords, I don't mean the wealthy aristocrat who owns property in the centre of the city, or terraces of houses and shops, I refer to those landlords who own a few small houses, of two, three, or four rooms each. Persons of that class have called upon me, as I dare say they have upon other honorable members, and they have told me that they consider this to be a most iniquitous measure. It will permit any man who

becomes a tenant of a house to remain in that house, even if he does not pay his rent, and the landlord will only be able to get rid of him by a tedious and expensive process. There are, in the suburbs of Melbourne, hundreds of landlords who own two or three small houses, upon the rents of which they live. They have acquired their bit of property by their own industry, and many of them are now too old to work. We are encouraging in this colony—and rightly so—a rate of wages which enables steady persons, by dint of thrift, to attain sufficient of this world's goods to lay up a provision for their old age in this way; and I will not be contradicted when I say that those who do that are the class who form the backbone of the colony, and who deserve above all others to be encouraged. A serious blow will, however, be struck at these people if such legislation as is now proposed be adopted. The Bill is unnecessary, and I trust that it will not pass its second reading. If it should, I shall be prepared to move that certain of its clauses be struck out, and in this way I hope that we shall be able to destroy its mischievous character.

Mr. TRENWITH.—Sir, the honorable member who has just resumed his seat has expressed surprise that the Attorney-General should have again introduced this Bill. I, on the other hand, desire to express my admiration at the fact that the Attorney-General has had the courage to persevere with a measure he believes to be right, notwithstanding the strong objections that were previously offered to it. The question that suggests itself to my mind in connexion with this Bill is, whether it is right that any one class of the community should have a preferential claim over another? I would at once answer that question in the negative. Why should any man, simply because of the special nature of his investment, have a preferential claim? Why should not the man who sells tea or sugar have as great a security as the man who sells the use of a house? I cannot see why any difference should be made between the two classes of creditors. It has been urged by the leader of the Opposition that a man cannot go to a grocer's shop and get pound after pound of tea without paying for it; but neither can a man remain week after week in a house without paying the rent.

Mr. MUNRO.—Yes, he can. Landlords cannot sometimes get their tenants out.

Mr. TRENWITH.—The Attorney-General has made provision in this Bill for

the more summary ejectment of defaulting tenants.

Mr. TURNER.—That clause would not apply at all.

Mr. TRENWITH.—Doctors differ, and so do lawyers. In this case I prefer to adopt the opinion of the lawyer, whose views coincide with my own. I feel that the law which gives to landlords a preferential claim is an iniquitous law. This Bill will not deprive landlords of advantages that are fair and reasonable, but it will deprive them of a power which is unfair and unreasonable. I do not think that the Bill will be carried. For a long time past the only persons who have had much influence in the making of our laws have been the landlords, and the result has been that those laws have been framed largely in the interests of the landlords. The honorable member for Emerald Hill has drawn a pathetic picture of the position in which persons who obtained their livelihood from the rents of two or three small cottages will be placed under this Bill. I can cite an instance of a landlord who had a brother-in-law who was an auctioneer, and who encouraged his tenants to run into arrears so that he might put the bailiffs in and get his brother-in-law to sell the goods by auction. There are so many landlords in this House that we cannot expect that this Bill will be carried. I will, however, support the Government in every effort they make to deprive the landlords of the tyrannical privilege they possess. Objection has been taken to the time-payment system, and I agree that it is monstrous that a man should be able to seize goods of the value of £30 in respect of a debt of perhaps only 30s. That, however, is no reason why one creditor should be paid and another should not. Why should the landlord be the only creditor who is paid in full?

Capt. TAYLOR.—He never gets paid.

Mr. TRENWITH.—Perhaps the honorable member means that he never does pay. I feel that we are wasting time in asking the House to agree to this measure. It will soon become a serious question whether land-jobbing should not disqualify a man for a seat in Parliament. When the people who are not landlords are fully aroused, the landlords will not be allowed to retain the exceptional privileges they now possess.

Mr. McLEAN.—Mr. Speaker, I quite sympathize with the desire of the Attorney-General to protect tenants from what may appear to be an unjust or undue exercise of power on the part of landlords, but I object to this Bill; and

I do so not so much in the interests of the landlords as of the tenants. If the Bill passes, every landlord will have the means in his hands of protecting himself by the simple process of refusing to let a house to any person, unless he pays the rent in advance. How, then, will struggling persons who are not able to pay rent in advance get houses to live in? The Attorney-General cited a case, which he seemed to think was a very hard one, in which a landlord seized a sewing-machine belonging to a third party, when there was sufficient furniture in the house to pay the rent. Had not the owner of the sewing-machine a remedy against such an act of injustice?

Sir B. O'LOGHLEN.—Mr. Speaker, it is my intention to support the principles of this Bill. I congratulate the Attorney-General on his courage in persevering with such a measure in a House which is favorable to landlords. I am not surprised at the opposition that is offered to it. I sympathize with the view of the honorable member for Geelong (Mr. Munro), that the Bill will operate against the interests of tenants, and I would suggest a compromise, which I think would bring the House into agreement on this question. It is this, that a proviso should be inserted in the Bill to the effect that a landlord's claim should avail against the goods of a wife living in a house of which her husband is the tenant, or the goods of a husband living in a house of which the wife is the tenant, against goods hired on contract, and against any goods under bill of sale. That proposition would, I think, be accepted by honorable members. It is quite unjust that the goods of third parties should be seized by a landlord simply because they happen to be in the house when the rent is due. I can understand the landlord having a claim against the goods of both husband and wife, because they have had the benefit of living in the house; or against the goods of the time-payment man, who has entered into a profitable contract; or against goods under a bill of sale; but it is neither fair nor just that the landlord should have any claim against the goods of a third party who happens to be residing in the house. I have conversed with some landlords who are strongly against this Bill. One gentleman, who receives an income of £5,000 a year from a number of small houses he owns, told me that he had never sold any tenant's goods; if he wanted to get rid of a tenant he sent him a private note, in which he intimated that he intended to seize his

goods, and to apply for an order of ejectment, and within 24 hours the tenant disappeared, taking his goods with him. If the proviso I have suggested were added to the Bill, I think that the House would accept it, and would assist the Attorney-General in making this principle, which is a sound and honest principle, the law of the land.

Mr. BEST.—Sir, I am at present suffering from what might be called an inversion of ideas as to what I thought to be the condition of affairs. On the one hand, a Bill is introduced in the interests of the working-classes by the Attorney-General and the Premier; and, on the other hand, that Bill is bitterly opposed by the honorable member for Geelong (Mr. Munro), who has heretofore been regarded as a sort of democratic leader. In addition to that, one of the principal supporters of the Bill is the honorable member for Richmond (Mr. Trenwith), who is one of the leading democrats of the colony. I congratulate the Ministry on their new supporter. It was somewhat unjust to the House that the honorable member for Richmond should refer so frequently to what he termed the “tyrannical” powers exercised by the landlords. In a House and in a Parliament which is so closely in touch with the people, in a colony in which manhood suffrage prevails and the laws of which are so distinctly democratic, it is, I think, unjust and unfair that the suggestion should be made that honorable members are determined to act simply in the interests of the landlords. The refutation of that charge is found in the speech of the honorable member for Port Fairy, who has cited the instance of a landlord who receives some £5,000 a year in rentals, and who makes the proud boast that he has never exercised the power he possesses of entering a distress for rent on a tenant. We are told by the Attorney-General that this Bill will make only a small change in the law. As a matter of fact, it will cause a serious revolution in the law. The present law relating to landlord and tenant had its origin in feudal times, and it is based on sound principles. It has been urged that a landlord should not have any preferential claim on the goods of a tenant over a butcher, a baker, or a grocer. The analogy drawn between the two cases will not bear investigation. As the honorable member for Geelong (Mr. Munro) clearly pointed out, the ordinary tradesman has the option of refusing to supply goods; and he will do so if he is not paid. A landlord, on the other hand,

lets his house to a tenant who allows his rent to fall into arrears; it is not competent for the landlord to eject the tenant at a days’ notice, or to exercise the privilege of refusing to allow him to incur any further debt as a tradesman would do. Consequently I submit that the analogy does not lie at all. The Attorney-General introduced to our notice a case in which a sewing-machine belonging to a woman, who lived in the same house with her husband, was seized for the payment of rent. I should like to know why a landlord should not be allowed to recover his rent from a wife equally with a husband. In the case referred to the husband and wife lived together, the sewing machine was in the house, and therefore I say that no hardship was caused by the seizure. I take the view of the honorable member for Gippsland North, and I trust that the honorable member for Richmond will credit me with sincerity in saying that I believe that this Bill is calculated to inflict serious injury on the humbler classes. It is on that ground that I think honorable members have a right to oppose it most bitterly. To my mind, moreover, it is a Bill that will encourage all sorts of jugglery. If it is passed a man may take a house in his own name, and the wife may have a separate estate or furniture. Then if the rent falls into arrears the landlord will be told that he must not touch any of the property in the house, as it belongs to the woman, who is not the tenant.

Mr. GRAVES.—And if that property is seized he will be able to bring an action against the landlord.

Mr. BEST.—Yes, I am coming to that point. At present all that an agent who has the letting of houses has to make inquiries about is the respectability of the tenant, but under the new law it would be necessary for the landlord to surround himself with a guarantee, so that he might be perfectly satisfied that the tenant, or some one on his behalf, would be in a position to pay the rent, because the landlord would know that any goods that came into the house would not necessarily be at his disposal for the purpose of recovering any rent in arrear. If a tenant was subject to inquiries and sureties of that description, the probabilities are that he would be made to suffer to a very serious extent in consequence. I would also point out that the proposed alterations would very seriously interfere with the present law. There is a means of raising money known to people of humble circumstances, and that is upon a bill of sale or security of the furniture. Under

the proposed alteration the landlord would have no means whatever of recovering against the goods mentioned in the bill of sale, and consequently he would have to take means otherwise to secure himself. Clause 8 there is every reason to believe would be prolific of serious litigation. By clause 5, if any person unlawfully seize or take by way of distress any goods or chattels, then the person claiming to be entitled to them may take proceedings to obtain their delivery or restitution. It having been once established that goods ostensibly the property of the tenant are really not his, an unlawful action has been committed by the landlord in seizing them, and then by clause 8, proceedings against the landlord are specially reserved. That clause provides—

“No proceedings taken under this Act for the purpose merely of obtaining the delivery up or restitution of any goods, chattels, tools, or implements of trade, or wearing apparel, or bedding unlawfully seized or taken as or by way of distress for rent shall affect the liability of the person by whom or on whose behalf the same are seized or taken to an action at law at the suit of the person claiming to be entitled to the property or possession of the same.”

So that, although the action of the landlord in seizing goods which were ostensibly the property of the tenant was of an innocent character, yet he has thereby virtually rendered himself liable to an action at law. There is no doubt that cases of injustice would arise in that way. There is one clause of the Bill which, I think, would meet with the unanimous consent of the House, and that is clause 4, which provides that the tools of trade of the tenant, to the value of £10, and the wearing apparel and bedding of the family shall be exempt from distress for rent. I am quite sure that the House would willingly pass that clause, and if the Attorney-General could see his way to strike out the other clauses I believe he would be acting to the advantage of those whom he seeks to benefit in this direction. We are told by the Attorney-General that a summary process is proposed in order that the landlord may not be unduly prejudiced by the provisions of this measure. But what is the effect of that summary process? At present it is necessary that seven “clear” days’ notice should be given of intention to apply to the court. This actually means nine days. By clause 9 it is proposed to reduce the seven clear days to three. Then some two or three days would be wasted before the matter was brought before the court on the proper court

Mr. Best.

day. Next it is proposed that the warrant may be stopped for seven days; so that the probabilities are the landlord will have to endure the loss of arrears of rent, and possibly a fortnight’s time may be expended in recovering possession of his property. Consequently I do not think this summary process is such a remedy as the Attorney-General would have the House believe. More than that, I am not so sure that the House would be prepared to entertain the proposition that a tenant should be ejected with any great severity or harshness, or in an unduly summary way. If a tenant could be turned out at two or three days’ notice, as suggested by the Attorney-General—although that is not carried out in the Bill—then I say a serious hardship might be inflicted on deserving and poverty-stricken people. I think, if the Attorney-General desires to work a reform, there is plenty of room to work a most substantial and advantageous reform in the system of time-payment. It has struck various members who have criticised this Bill that it seems to be a Bill purely in the interest of the time-payment firms. Now I believe no greater iniquities exist under the present law of distress than those which exist in connexion with the time-payment system. On the contrary, I am perfectly satisfied that greater and infinitely more dangerous hardships are calculated to arise in the perpetuation of the present time-payment system. Hardships have been constantly coming under our notice in connexion with that system; and I believe that at no distant date it will be the duty of Parliament to deal with the matter. Time after time we hear of persons buying £50 worth of furniture, and when, perhaps, £45 has been paid, the whole of those payments have been sacrificed by reason of the purchaser, in consequence of some misfortune, being unable to complete his obligation. I feel that this Bill certainly is not to be commended as going in the direction in which, I am sure, the Attorney-General is anxious it should. On the contrary, it is calculated, in my opinion, to create infinitely greater hardships to the humbler classes than those it is intended to cure, and on that ground I most strenuously oppose it.

Dr. PEARSON.—Mr. Speaker, I do not think I was ever more astonished since I entered Parliament than I was when I heard the attempt made to prevent even the introduction of this Bill, and I have been hardly less astonished at the arguments by which the opposition to it has been supported.

My chief surprise is that such a measure should be necessary in this nineteenth century. I think it is rather a disgrace to us that a process which I believe exists in no other country except England should be allowed to remain here. But if my wonder could have been increased it would have been by the remarkable argument that those who oppose this Bill do so in the interest of the working man. I should like to take that argument to an assemblage of working men in Brunswick or Collingwood, and ask them what they think of it—whether they see any divine right in the landlord to seize upon the property of the wife in order to pay the husband's debt. That is the long and short of the proposal made on the opposite side. I shall be told that the working men are really not the best judges of such a matter as this.

Mr. MUNRO.—No.

Dr. PEARSON.—Will the honorable member tell me that any body of working men would throw out this Bill?

Mr. MUNRO.—Thousands of them.

Dr. PEARSON.—I am perfectly certain that if this proposal were put before the people, where the honorable member would get a few hundreds to vote against it I would get tens of thousands to vote for it. And I am quite certain you may trust, in a matter of this kind, the insight of the classes who are peculiarly affected infinitely more than the specious arguments of economists, or of those who have a commercial interest on the other side. It is the old story. We have been told for years and years in England that the eight hours system is a perfect absurdity, but we know that it has been established here, and has proved an eminent success; and it has been worked out because the working men of the country had the insight to see that it was sound. It is the same with trades unions. I believe you will never be wrong in trusting a large mass of men to see their own interest in a matter which is one of everyday concern to them. What was the sort of argument used to show that it was not the working man's interest to have his wife's furniture free from seizure? The argument was, that a man in possession of a house to let looked to a certain extent to collateral security, and that he would be more likely to take the working man as a tenant if he could seize any property under the roof, even though it did not belong to the man himself. Those who use that argument must remember that if the landlord is necessary to the tenant, the tenant is just as

necessary to the landlord, and landlords in Melbourne or the suburbs cannot afford to let hundreds or thousands of houses lie untenanted simply because they cannot enforce an usurious demand. Therefore we may be certain that if this Bill were passed it would make only the slightest difference, and what difference it would make would, I am inclined to think, be in the right direction. Landlords would look a little more to the character of the men they took as tenants, or would demand two or three weeks' payment in advance.

Mr. TURNER.—Two or three weeks' rent in advance from a working man!

Dr. PEARSON.—A working man who took a house would, I think, generally be in a position to pay two or three weeks' rent in advance. But even if this proposal could have been argued against some years ago, I venture to think that the course of our own legislation has put it absolutely out of our power logically to reject this Bill. We already possess two-thirds of it in one way or the other. What was the old law of distress in England and here? A lodger's property might be seized to pay the tenant's rent. I myself have had to leave a lodging-house in London because I was informed that a distress was going to be put in and that my books and other small chattels would be seized.

Mr. ZOX.—Is that the law now?

Dr. PEARSON.—No, and that is exactly my point. We have taken away that security from the landlord, and yet I have never heard any complaint of a scarcity of lodging-houses in consequence. Again, we have allowed what the whole course of English law for centuries was against—we have allowed, as a simple act of justice, that a married woman may have property of her own. And now that we have these two principles in our law, that a lodger's property is his or her own; and that a married woman's property is her own, we are called upon to maintain the absurd anomaly that while a married woman may own property outside the house she may not have a piano or sewing-machine of her own. As far as the logic of the matter goes, the whole contention of the opposite side is knocked on the head at once. Take another point. There is nothing in this Bill about time-payment, but honorable members have taken up the question very largely, and appear to think that the Bill is in the interests of those who sell by time-payment. Is it so very wicked if those who sell by time-payment are considered? Does not the State sell its land by time-payment

to the selector? Do not land and building societies sell by time-payment? Does not the gas company furnish gas-stoves on time-payment? And would any one for a moment say that the interests of all those different people are to be disregarded? The Bill is only remotely in the interest of those who sell on time-payment, in the sense that it establishes the principle that a woman buying in this way shall not be defrauded of her honest savings. Let me point out for the consideration of those extremely remarkable and eccentric liberals who maintain that this Bill will make life dearer to the working man what is the effect of the present system of distress for rent. Does it not make furniture dearer to the working man? Are not time-payment houses obliged to charge more because of the risk of their furniture being seized? Once you take away this perfectly artificial system, for which you cannot find a parallel in any country in Europe, will you not restore something like the liberty which ought to exist in transactions between man and man, and enable the poor man really to buy in the best market for himself? Is it in the interests of morality that we should give any additional confirmation to the principle that a man is entitled to look to a collateral security that is not consciously given by the other party? Do we admire the principle that a money-lender may lend money to a minor because he knows his father will pay? Should we encourage the principle under which a merchant gets credit, not because of the security he himself affords, but because it is believed that some wealthy friends will pay, sooner than see him collapse? You are bolstering up an equally rotten system if you say that a landlord who contracts a commercial bargain with a tenant is entitled to look to a collateral security which the person who gives it has no knowledge of, or hardly realizes. What we really want is, to make the home as stable as possible, and anything that prevents man, woman, and child from being sold up is in the interests of the working classes, and in the interests of the whole community. What the landlord has a right to demand is, that he shall not be injured by a tenant retaining possession of a house whilst he does not pay the rent, and the remedy for that is given in the Bill. The Attorney-General saw both sides of the question, and in clause 8 he has provided for so minimising the time in which a tenant can be turned out as to reduce it to something

Dr. Pearson.

like a fortnight. Therefore it comes to this—that a landlord who takes a fortnight's or three weeks' rent is protected against all probable loss. Why should a landlord be favoured in a way in which no other vendor is favored? Why is it that the butcher and the baker, who are just as important as the landlord, cannot put in a distress? As a matter of fact, the more we get the country into a system of ready money for small transactions the better it will be. At any rate, I am sure that to give a security for debt upon property that does not belong to the debtor is to do an absolutely immoral and unjust thing. And when you do that in such a way that it affects the homes of thousands of people, and then say that that is democratic doctrine, I ask you to go to a democratic audience and learn their opinion on the subject. It is an outrage to say that it is anything but oppression in the interests of a very small section of the mercantile community.

Mr. TURNER.—Mr. Speaker, this “ready-money” Bill which the Attorney-General has introduced is a very short one, and appears on the face of it to be very simple; but really it is a most important measure, because it deals with large vested interests, and practically for all purposes abolishes the law under which landlords have acted and by which they have been guided for centuries.

Mr. PATTERSON.—A horrible thing that.

Mr. TURNER.—I would like to ask whence comes the demand for any such alteration as this? Has there been any outcry for any change of such a radical nature as that now proposed?

Mr. MUNRO.—Yes; the time-payment men have been canvassing all round for it.

Mr. TURNER.—As far as I can ascertain, there has been no demand by any of those people who have been so lovingly described by the Minister of Public Instruction, and so far as I know of the present system there are no really serious grievances under it—certainly none which would justify us in adopting a Bill which is full of intricacies, and which unquestionably demands mature consideration and extensive amendment before it will deal fairly and equitably with all parties interested. This measure seems to me to be all on one side—to be aimed at the unfortunate person who is wicked enough to be the owner of real estate. Under the present law, no doubt the landlord has the right to distrain upon any property he may find on the premises, but this is subject to

many restrictions. Certain classes of property are exempt—some partly, some wholly—and if the landlord make any serious breach of the stringent conditions that are imposed upon him—if he distrain for more than he is entitled to—he is liable to an action. On the other hand, if he take too little he cannot come again. Under this measure no landlord would dare to distrain, however badly he had been treated. The difficulties are made so great that the right of distraint is practically abolished. I quite agree that a hard rapacious landlord should not be permitted to press too severely on a struggling honest tenant, but at the same time we should not confer privileges on unscrupulous adventurers, which will enable them to swindle their landlords. It is said that the landlord should be in no better position than the ordinary tradesman, but the cases are very different indeed. The tradesman knows the extent of his risk, and can stop at any moment. If I go to a butcher's shop and order a leg of mutton, the butcher can come to my house with the mutton in one hand and the other hand extended for the money. No money, no mutton. But if I am a tenant, I have possession of the property, and the landlord will find it very difficult, tedious, and expensive to get me out. This shows clearly that there is no analogy between the two cases, and furnishes a very strong argument why there should be some reasonable right of distraint given to the landlord. Under the Bill the tenant is to be the person by whom the rent is payable, so that when a tenant has sublet the premises the landlord will have no remedy whatever. I think that if we make any alteration at all, we should certainly provide that the landlord should have the right to distrain on the goods of any person actually in possession. If he be a sub-tenant, then, of course, he will have a right to deduct any amount he may be called upon to pay out of any rent he may owe or that may thereafter accrue, so that he cannot possibly suffer. Again, the distress is to be on the goods of the tenant, so that where the goods are under time-payment, or under a bill of sale or contract of sale, if there is a single shilling owing on the security, the landlord cannot possibly distrain. We are told that combinations may take place between tenant and their landlords to enable them to swindle the time-payment sellers, but under this Bill it is much more likely that combinations will take place between the tenant and the holder of a dummy contract of sale

or bill of sale whereby some nominal balance will always be left, and the landlord will be debarred altogether from the right to distrain. There are also cases in which tenants are living with their wives, and the result will be that the landlord will practically cease in all these cases to have the remedy which the law has so long given him. Whenever a distraint is put in, a claim will always be made on behalf of some one else. Moreover, under the Bill no time is fixed within which this claim has to be made, so that months after a landlord has seized and sold goods he may be ordered to restore them, or an action may be brought against him and heavy damages recovered, although perhaps the goods have been sold for a small sum. Again there is no provision that at the time the claim is made the claimant shall give any proof of his *bona fides*. If we are to have such a law, we should certainly, at least, require a statutory declaration from the claimant, showing what his title is, because in every case of distress the tenant will certainly deny that the goods belong to him, a claim will be set up on behalf of his brother-in-law, sister, cousin, or aunt, and then the landlord will have to withdraw or else take the risk of legal proceedings. Even if he does withdraw, he will be liable under this Bill to an action. By one of the clauses, not alone is power given to order the goods to be restored, but a person, perhaps actually living in the house and enjoying all the advantages of the tenancy, is entitled not only to compel the landlord to hand over the goods but also to recover damages for the mere act of seizure. We in the legal profession know that there is a great difference between an unlawful distress and one which is merely irregular; but this Bill provides that the mere act of seizing goods which are not the property of the tenant is to be an unlawful act, and although the person owning them may not have sustained the loss of a solitary shilling, he will be entitled to recover heavy damages from the landlord, who may have honestly believed the goods to belong to the tenant. It seems to me that this Bill is not framed with due regard to the rights of landlords, because if we sweep away the power of distress then we ought to provide some very simple means of ejecting a tenant who does not pay his rent. The Attorney-General tells us that he has provided that, but I think he misconstrues altogether the provision to which he refers. At the present time if you wish to eject a tenant you must first of all give him either

a week's or a month's notice to quit, according to the nature of the tenancy. Then you have to give him notice of application to the court of petty sessions, and the court very properly allows him reasonable time to find another house. According to my experience, it generally takes six to seven weeks before you can get rid of a defaulting tenant. But that only applies to cases where the tenancy has been determined. The mere non-payment of rent is not by any Act I know of or by common law a determination of the tenancy. Certainly in all properly drawn leases there is a proviso that if the rent be in arrear for 14 or 28 days the landlord shall have the right to determine the tenancy, but there are a large number of houses which are let without any written agreement at all. In such cases under the existing law—as regards the poorer classes of dwellings especially—the landlord who wants to get a tenant out gives him a very broad hint that he is going to distrain, and then the tenant has a moonlight flitting. The landlord loses his rent, but he recovers possession of his property cheaply and expeditiously. If, however, we pass this law preventing distress on goods which do not belong to the tenant, the tenant will only have to put forward his wife as the owner of the goods, and he can keep possession of the landlord's property for six or twelve months, in defiance of the landlord, without paying a shilling of rent, because, where merely verbal agreements are made, there is no right whatever to eject simply because the rent has not been paid. If the provision in the Bill is to be of any utility at all, it must go a great deal further than it does at present. I myself know a case in which a widow, who had to subsist on the rent of two cottages, let one of them to an unscrupulous person, and shortly afterwards all the furniture was taken away by the time-payment man. She naturally thought the tenant would then give up possession of the property, but, knowing he could not find another place, he set her at defiance, and she actually had to pay him to clear out. I think that if we take away the right of distress, as is practically done by this Bill, we shall find a very large number of tenants taking advantage of the position in which they would be placed. I consider the law, as it at present stands, is an advantage both to the landlord and to the tenant—to the tenant especially, because the landlord, knowing that he has a quick and easy means of recovering his rent, does

Mr. Turner.

not insist on "three weeks in advance," as the Minister of Public Instruction tells us he should do, and he allows the tenant to get into arrear with his rent. This enables an unfortunate man who may be out of work to keep a house over his head, but if we pass this law the landlord will naturally insist on getting his rent regularly every week or out the tenant will go, with the three days' notice the Attorney-General promises. On the other hand, I think the Bill will be a great disadvantage to landlords, because they will not have that security for their rent which they now possess, and what will they have to do? They will certainly have to follow the example of the time-payment men, and charge an extra 1s. or 1s. 6d. a week to cover the increased risk. Of course, it may be said that landlords will have to find tenants to occupy their houses, but that argument cuts both ways. When a landlord knows he is running this very great risk he will be very cautious in selecting his tenant, and a man who may be honest but poor will be refused a tenancy, while the rogue who is clever enough to make the landlord believe he owns property will get possession. For my part I don't think the time-payment people deserve any very great consideration. For one thing, they can easily protect themselves. All they have to do is to take care, when collecting their weekly instalments, to ask each tenant who happens to be a customer to show his rent-book. If they find that his rent has not been paid for so many weeks, they will have a perfect right, under the agreement with him, to remove the furniture on which money is still owing to them. At the same time I am quite in accord with the Bill so far as it protects the tenant with respect to his wearing apparel and tools of trade. As for lodgers, they are already amply protected. The Minister of Public Instruction forgot to tell us that under the existing law, while a lodger's goods cannot be sold, he may be called upon, if he owes rent to the tenant he is lodging with, and that tenant is backward with his landlord, to pay the money to the landlord; and that under the Bill he cannot be required to do anything of the kind. All he will have to say to the landlord will be, "Those goods are mine; if you seize them I will bring an action against you;" and he may add, "Although I owe your tenant £5 or £6 (as the case may be), I am not going to pay it to you." In my opinion, protecting the tenant's wearing apparel and tools of trade

will be quite sufficient for him, while the time-payment people have ample power to protect themselves. The Bill is so loosely framed that carrying it into law would assuredly result in an enormous amount of litigation, which I, as a member of the legal profession, of course object to. Besides, a door will be open to all sorts of fraud; tenants will be able to swindle their landlords right and left. I may be told that the Bill can be amended in committee; but it can hardly be redrafted in committee, and that is what needs to be done. The wisest course for the Government is to withdraw the Bill now, and, if they still wish to protect the interests that have been referred to, to bring up a completely remodelled Bill next session.

Mr. W. T. CARTER.—Sir, I am truly grateful for the opportunity now afforded me of supporting a Government measure. This Bill contains an important principle, therefore I will have great pleasure in doing my best to prevent Ministers being defeated upon it by their own supporters. I have not the same interest in the measure that some honorable members have, for I am one of the class described by the Minister of Customs as “carpet-baggers,” and as a “carpet-bagger,” and of course a tenant, I beg to present the sincere thanks of the tenant class to the landlord class for their very great anxiety for our welfare. I don’t want to suppose that all that anxiety is simulated, or to impute dishonest motives, but it is odd to discover, whenever their vested interests are at stake, that all their sympathies appear to be for their victims rather than for themselves. In much the same way, whenever there is any talk of protecting labour against capital, you hear the capitalist saying, “Oh, if you take a course of that sort you will injure the interests of labour.” And no doubt the interests of labour would be injured if those concerned in that behalf did not look at both sides of the question. I do not think however that the landlords see both sides of the question as clearly as they profess to do.

Mr. McLEAN.—Do you wish rents to be reduced?

Mr. W. T. CARTER.—What I want is to see competition come into play in this case to the same extent that it does in other cases. There is one superior advantage the landlord has which has not yet been spoken of in this discussion, and I think that to mention it will be a sufficient answer to the honorable member for St. Kilda, who referred to the butcher being able to take his leg of

mutton in his hand and say, “No money, no mutton.” The superior advantage I refer to is the fact that the landlord is paid not merely for his bricks and mortar, or his weatherboard, as the case may be, but also for the increment in the value of his land—the increment which comes to him through the exertions of the whole community. It is the benefit he receives in this direction which places him in a position to so easily guard himself, without any outlay on his own part, against risks in the matter of tenants. In reference to these time-payment men the Premier suggested a parallel between them and the building societies. Well, perhaps there is some similarity between the building society people who can seize property for arrears of interest and the time-payment men who take advantage of the working man’s needs in order to sell their goods to him at exorbitant rates. At the same time I know, although I am not a time-payment customer myself, that, of course, if the poor man is ever to acquire property, he must submit to a number of disadvantages. We “carpet-baggers,” we men who hold no stake in the country, have to a certain extent to submit ourselves to the usurers, although we know they will take advantage of our poverty. The leader of the Opposition says that the building societies don’t take so much advantage as the time-payment men take, but I assert that they are able to take even greater advantages. Whether they fully avail themselves of their privileges is, of course, a very different affair. For example, I could sell my interest in a partly paid for sewing-machine, but in case of arrears a building society can take the whole property over. On the other hand, it should not be overlooked that, although the time-payment men are railed at, it is often only through them that the poor man can get furniture for his house, or a sewing-machine for his wife to work. I am also quite certain that were the time-payment men here they would point out most clearly that it would be to the injury of their customers rather than of themselves to legislate in regard to them—the time-payment men—as we are now asked to legislate in regard to landlords. But I know that honorable members do not want the time of the House to be taken up with discussion of this sort, so I will simply express the hope that the Government will stick to their measure.

Dr. MALONEY.—Mr. Speaker, the remarks of the honorable member for Wiltamstown have not left me much to say.

Between the shopkeeper and the landlord there is a very great difference, and it is to the advantage of the latter. True, the shopkeeper can stop a customer's credit at once; he can object to that customer having any more goods; but will not a landlord be able, under clause 9 of the Bill, to turn out a tenant at seven days' notice? Then the goods of the shopkeeper are often perishable. His mutton or his groceries may go bad; they may, so to say, run away; but who ever heard of land running away? I congratulate the Attorney-General upon having introduced this measure. Perhaps there is more justice in it than law, and I am glad to feel able to say so. I was certain that the honorable member for Fitzroy (Mr. Best) would defend the landlords. I may be asked why I had that expectation. I had it because if landlords were done away with, the honorable member would find himself like Othello, with his occupation gone. As for the time-payment men, I would like to see the Attorney-General bring in a measure forbidding any landlord to seize the household goods of his tenant. For my part, I do not see any difference between the time-payment men and building societies. Perhaps, however, there is a little more swindling on one side than there is on the other. I hope the Bill will go through. If it does not, I trust the Attorney-General will bring it up session after session, until it is carried. In any case it shall have my vote.

Mr. ZOx moved the adjournment of the debate.

The motion was agreed to, and the debate was adjourned until the following day.

SUBURBAN TRAMWAYS COMPANY BILL.

Mr. BEST (in the absence of Mr. LANGRIDGE) moved for leave to introduce a Bill to authorize the Suburban Tramways Company Limited to construct tramways in the cities of Melbourne, Richmond, Prahran, Collingwood, and borough of St. Kilda, and for other purposes.

Mr. BEAZLEY seconded the motion.

Mr. G. D. CARTER asked if the standing orders of the House had been complied with in respect to the Bill?

The SPEAKER.—The Bill has been before the examiners, who have reported that the standing orders have been complied with.

The motion was agreed to.

The Bill was then brought in, and read a first time.

KEW CHURCH OF ENGLAND LANDS BILL.

On the motion of Capt. TAYLOR this Bill was read a second time, and ordered to be referred to a select committee.

PRESBYTERIAN TRUSTS BILL.

Mr. MUNRO moved the second reading of this Bill.

Mr. BURROWES seconded the motion. Mr. WRIXON said he did not think there would be any objection to the Bill being read a second time. It should be borne in mind that the House would not be thereby committed to the principle it embodied, as would be the case with a public Bill, because the measure would have, before it was carried further, to be remitted to a select committee, by whom it would be thoroughly inquired into. Moreover it was to be observed that Bill was framed strictly after the pattern of two Acts already in existence, namely, those which regulated trusts in connexion with the Church of England and the Wesleyan bodies. Doubtless the Bill contained a few new clauses, but they were mostly of a merely formal character. Besides, they would be carefully considered by the select committee.

The motion was agreed to.

The Bill was then read a second time, and ordered to be referred to a select committee.

Mr. MUNRO moved—

“That all fees that may be incurred by the promoters of the Bill to provide for the creation of a corporate body of trustees in which property belonging to the Presbyterian Church of Victoria may be vested, and for other purposes, on its passage through this House be remitted.”

Mr. BURROWES seconded the motion, which was agreed to.

MELBOURNE TRAMWAYS TRUST BORROWING POWERS BILL.

On the motion of Mr. BEST, this Bill was read a second time, and was ordered to be referred to a select committee.

EIGHT HOURS SYSTEM.

Mr. TRENWITH moved—

“That in view of the wide-spread and rapidly-growing feeling in favour of the eight hours system of labour, it is the duty of the Government to introduce at an early date, not later than the beginning of next session, a Bill to legalize the system in connexion with all departments of industry throughout Victoria.”

If honorable members are willing (said Mr. Trenwith) to vote for this motion without discussion, I will not say a word more. In any case I do not intend to detain the House at much length. In fact, the eight hours

system of labour has been so often debated and so unanimously approved of that it does not appear to me at all necessary for me to enter largely upon the desirability of legalizing it. Besides, almost every honorable member has expressed his opinions on the subject already to his constituents, and is therefore prepared beforehand to vote one way or another. But the question of whether the Government should be asked by the House to introduce a Bill legalizing the system stands on a different footing, and may fairly be dealt with argumentatively. On this point I contend that, in view of the opposition that has been so frequently offered in another place to the principle of legalizing the eight hours system, it is very important that the Government should introduce a measure on the subject, and so secure the influence in its favour which generally attaches there to all propositions emanating from the Ministry of the day. Another reason is that, according to my experience, private members have so little time allowed them for the transaction of legislative business in this Chamber that it would be almost hopeless to expect a Bill of the kind I have indicated to have, in the hands of a private member, any chance of success. For instance, I recollect perfectly well that nearly every private member's night last session there were strenuous efforts made to secure a count-out. Indeed, it was not unfrequent to find the Government whip going round the House and asking honorable members if they did not want to go home, and all that sort of thing. Under these circumstances, it seems to me undesirable that a private member should take the subject I am referring to in hand, and very desirable that upon the Government should be placed the responsibility of dealing with it. No doubt there are difficulties, many difficulties, in the way of applying the eight hours system universally. Perhaps it may be found impossible to so apply it. But I think, on the other hand, that if honorable members are agreed that such an application of the system would be advantageous, the obstacles in the path ought not to frighten them. It is often found that apparently insuperable difficulties are easily overcome by men who are really in earnest. Another argument which has been used is that the eight hours system has been so universally accepted that there is no need to absolutely legalize it. But I have reason to know that those who take that view simply hold to a fallacy. Of course the principle is very much applauded in public, because people do not dare to

speak of it in any other terms, but in practice its adoption is very far from being general. I contend, therefore, that rendering its adoption compulsory by legislation is a crying necessity. Possibly the system cannot be insisted upon in every department of industry, but as far as it can be carried out it ought to be carried out.

Mr. GILLIES.—Will the honorable member allow me to make a remark? The object of the motion is to place upon the Government the responsibility of introducing a measure on this subject next session; but would it not be better to debate the point later on? Certainly, the matter cannot be regarded as extremely pressing. Besides, I scarcely think that honorable members all round are perfectly prepared at the present time to enter upon the discussion. At all events, I will promise the honorable member that, if he will not push the matter forward now, he shall have an opportunity before the session closes, no matter whether the night be a private members' night or not, of taking the opinion of the House on the matter.

Mr. TRENWITH.—I will accept the promise of the Premier on the understanding that the opportunity must come earlier than about the last month of the session. It might happen that, in spite of the Premier's promise, he will find himself unable to keep it.

Mr. GILLIES.—If the Government have not power to keep the promise, we shall not be sitting on this (the Treasury) bench.

The motion was withdrawn.

COUNCILS OF CONCILIATION BILL.

Mr. RICHARDSON moved for leave to bring in a Bill to establish councils of conciliation.

Mr. KIRTON seconded the motion, which was agreed to.

The Bill was then brought in, and read a first time.

ADJOURNMENT.

Mr. GILLIES moved that the House, at its rising, adjourn until the following Tuesday. He said that a number of important Bills had been submitted by Ministers, but their further consideration had, at the request of honorable members, been postponed, some for a week and some for a fortnight, and there was at present really hardly any work to go on with. At no time since he had been in Parliament had so many important measures been introduced

so early in the session. He trusted that the Metropolitan Board of Works Bill would be proceeded with on Tuesday.

Mr. MUNRO said he supposed the House would have to adjourn until next week. He was sorry to find it intimated that the wicked Opposition were the cause of the adjournment, but no doubt the Bills which had been postponed were of great importance, and required very careful consideration.

Sir B. O'LOGHLEN thought the House ought not to adjourn until the Premier had stated what concessions the Government would make in the matter of the Railway Construction Bill. An interview had taken place on the subject between a number of honorable members and the Premier, and it was desirable to have from him a distinct statement as to the promises then given by him. The House and the country desire to know the latest state of the honorable gentleman's mind. His (Sir B. O'Loughlen's) constituency were up in arms, and they did not want to be buoyed up by false hopes.

Mr. GILLIES said he would be happy to give the honorable member for Port Fairy all the information he desired, but inasmuch as he was present at the interview in question, he could hardly need to be told what took place.

The motion was agreed to.

The House adjourned at five minutes to nine o'clock, until Tuesday, 1st July.

LEGISLATIVE COUNCIL.

Tuesday, July 1, 1890.

Consolidating Bills—Legislative Council Election Law Amendment Bill—Survey Boundaries—Electoral and Shire Boundaries—Railway Construction Bill: Maps—Expenditure under Loans—Resolutions of Australasian Federation Conference.

The PRESIDENT took the chair at twenty-eight minutes to five o'clock p.m., and read the prayer.

CONSOLIDATING BILLS.

These Bills (107 in number) were received from the Legislative Assembly, and read a first time.

The Hon. H. CUTHBERT moved the second reading of the Bills. He said that they were already printed, and had been under the consideration of a select committee composed of members of both Houses of Parliament. As those gentlemen

had given a great deal of attention to the question, and had had the opportunity of examining the Chief Justice, who superintended the production of this vast work, which had occupied His Honour's attention for more than eighteen months, he thought the House could very properly accept the Bills on trust, so that they might become the law of the land at an early date. The committee reported last session that it was not desirable that the Bills which were then ready should be passed, but that as soon as the 450 different Acts of Parliament that were to be found in the statute-book of the colony had been consolidated, it would be advisable, at the next ensuing session of Parliament, namely, the present one, to introduce the measures as a whole. These different Acts had now been consolidated into 107 Bills. It was proposed that all the existing Acts which had been passed from time to time should continue in force until the 31st July, and that the consolidated Acts should come into operation on the 1st August next. The report of the committee on this point was as follows:—

"Your committee approve of the plan upon which the consolidating Bills have been framed; but your committee regret to find that it would be impossible to pass the whole of the Bills into law at this late period of the year, and recommend that they be taken up the first thing next session, when the legislation of the session now about to close can be incorporated in the consolidation."

He desired to call the attention of the House to one of the measures, which was entitled "A Bill for the interpretation of legislative enactments and for shortening the language used therein." This Bill was framed on the lines of the existing Interpretation Act, but it also incorporated Imperial legislation on the subject, with a view to facilitate the work of drafting Bills. It likewise provided that no technical error or mistake which might hereafter be found in the consolidated Acts should deprive any person of any rights which had accrued under the Acts which would be repealed when the consolidated Acts came into force. All those rights were to be preserved. (Mr. Zeal—"How is that to be done?") In a very simple way. Every care and precaution had been taken to guard against mistakes, or the effects of any mistakes, with a view to preserve existing rights. Clause 27 provided that—

"1. Where any Act mentioned in the 2nd schedule to this Act or any Act passed after the commencement of this Act repeals and re-enacts